



# Federal Register

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### 5 CFR Part 3201

### 12 CFR Parts 308, 309, 310, 311, and 337

RIN 3209-AA15 and 3064-AC56

### Agency Reorganization; Nomenclature Changes

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** This rule addresses nomenclature changes effected by a Federal Deposit Insurance Corporation ("FDIC") internal reorganization order dated June 30, 2002. The reorganization resulted in the merger of several divisions and offices, the redesignation of two "regional" offices as "area" offices, and the abolishment of two positions in the former Office of the Executive Secretary ("OES"). The rule also addresses nomenclature changes resulting from the merger of two divisions by an internal reorganization order dated December 8, 1996. Consistent with these actions, this rule makes appropriate conforming changes in several of the FDIC's regulations in Title 12 and, with the concurrence of the Office of Government Ethics ("OGE"), in the FDIC's supplemental standards of ethical conduct regulation in Title 5. The rule also sets forth a Savings Provision in **SUPPLEMENTARY INFORMATION** that preserves, under their new names, all actions taken under the name of the former "Office of the Executive Secretary" and the former "Freedom of Information Act/Privacy Act ("FOIA/PA") Unit" of OES.

**DATES:** This rule is effective November 29, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Linda Keener, Ethics Program Manager, (202) 898-8660, Federal Deposit

Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (Supplemental Standards of Ethical Conduct); Frederick L. Fisch, Senior Attorney, FOIA/PA Group, (202) 736-0526, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (FOIA and Privacy Act Program); and Robert E. Feldman, Executive Secretary, (202) 898-3811, Leneta G. Gregorie, Counsel and Special Assistant to the Executive Secretary, (202) 898-3719, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (all other matters).

#### SUPPLEMENTARY INFORMATION:

##### Background

This rule implements the decision by the FDIC, through an internal reorganization order dated June 30, 2002, to merge OES into the Legal Division, thereby creating an Executive Secretary Section within the Supervision and Legislation Branch of the Legal Division; abolishing the positions of Deputy Executive Secretary and Assistant Executive Secretary (Ethics); and transferring program responsibility for the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552a, from the FOIA/PA Unit of OES to the FOIA/PA Group of the Litigation Branch of the Legal Division. This rule, consistent with the organizational changes, makes a number of nomenclature changes in parts 308, 309, 310, 311, and 337 of title 12 of the Code of Federal Regulations. Specifically, reference to the eliminated position of Deputy Executive Secretary is deleted, and all references to the "Office of the Executive Secretary," wherever they appear in the parts 308, 311 and 337, are changed to "Executive Secretary" or "offices of the Executive Secretary," as appropriate. Similarly, references to the "Office of the Executive Secretary" and the OES "FOIA/PA Unit" in parts 309 and 310 are changed to the "FOIA/PA Group" within the Legal Division. Conforming changes also are made to: the addresses to which FOIA and Privacy Act requests and administrative appeals of responses to FOIA and Privacy Act requests are to be submitted; the identities of the persons to whom such requests and appeals are to be directed; and the telephone numbers (voice and facsimile) of the FOIA/PA Group.

This rule, with the concurrence of OGE, also makes a number of appropriate nomenclature changes to references in the FDIC's supplemental standards of conduct regulation, as codified in 5 CFR part 3201, to reflect the June 30, 2002, mergers of certain other divisions of the FDIC and, as a result, to change the names of the "Division of Supervision" and the "Division of Compliance and Consumer Affairs" to the "Division of Supervision and Consumer Protection" and the "Division of Insurance" and the "Division of Research" to the "Division of Insurance and Research". These new names more accurately reflect the breadth of the divisions' activities as a result of the reorganization.

Moreover, this rule implements those aspects of the June 30, 2002, reorganization which converted the Boston and Memphis regional offices to area offices. Consistent with the division name changes, the conversion of two regional offices to area offices, and the aforementioned abolishment of the position of Assistant Executive Secretary (Ethics), this rule makes a number of changes in part 3201 by changing all references to "Division of Supervision" and "Division of Compliance and Consumer Protection" to "Division of Supervision and Consumer Protection" and "Division of Insurance" and "Division of Research" to "Division of Insurance and Research" wherever they appear; enlarging references to "regional office" to "regional or area office" wherever it appears; designating the "Ethics Program Manager" as the FDIC's Alternate Ethics Counselor in the place of the "Assistant Executive Secretary (Ethics)"; and clarifying the credit restrictions for field office supervisors and supervisory examiners in light of their expanded areas of responsibility as the result of the reorganization. Finally, the rule implements a previous FDIC reorganization which, on December 8, 1996, merged the "Division of Depositor and Asset Services" with the "Division of Resolutions". As a result, "Division of Depositor and Asset Services" is changed to "Division of Resolutions and Receiverships" wherever it appears in part 3201.

#### Savings Provision

This rule shall constitute notice that all references to the Office of the



Executive Secretary or OES in any documents, statements, or other communications, in any form or media, and whether made before or, with the exception of documents, statements, or other communications pertaining to the FOIA/PA Program, on or after the effective date of this rule, shall be deemed to be references to the Executive Secretary Section of the Legal Division. Moreover, any actions undertaken in the name of or on behalf of the Office of the Executive Secretary or OES, whether taken before or, except for actions related to the FOIA/PA Program, on or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of the Executive Secretary Section. This rule shall constitute further notice that, with respect to documents, statements or other communications relating to the FOIA and Privacy Act program, in any form or media, and whether made before, on or after the effective date of this rule, all references to the FOIA/PA Unit within OES shall be deemed to be references to the FOIA/PA Group within the Legal Division. Moreover, any actions undertaken in the name of or on behalf of the FOIA/PA Unit within OES, whether taken before, on or after the effective date of this rule, shall be deemed to have been taken in the name of or on behalf of the FOIA/PA Group within the Legal Division.

#### Rulemaking Requirements

1. This rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

2. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in the effective date are inapplicable because this rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(A). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under 5 U.S.C. or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable. Accordingly, this rule is issued in final form. Although there is no formal comment period, public comments on this rule are welcome on a continuing basis. Comments should be submitted to

Thomas E. Nixon, FDIC Clearance Officer, Legal Division, 550 17th Street, NW., Washington, DC 20429, (202) 898-8766. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m. [Fax number (202) 898-3838; Internet address [COMMENTS@FDIC.GOV](mailto:COMMENTS@FDIC.GOV)].

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics, is amending 5 CFR part 3201, and the Federal Deposit Insurance Corporation is also amending 12 CFR parts 308, 309, 310, 311, and 337, as set forth below:

#### 5 CFR Chapter XXII

#### PART 3201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

1. The authority citation for part 3201 continues to read as follows:

**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 1819(a), 1822; 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502, and 2635.803.

##### § 3201.101 [Amended]

2. In § 3201.101(b), remove the words “Assistant Executive Secretary (Ethics)” and add in their place the words “Ethics Program Manager”.

##### § 3201.102 [Amended]

3. Amend § 3201.102 as follows:

a. In paragraph (b)(2)(ii), remove the words “Division of Supervision and the Division of Compliance and Consumer Affairs” and add in their place the words “Division of Supervision and Consumer Protection”.

b. In the heading of paragraph (c), remove the words “employees assigned to the Division of Supervision and employees assigned to the Division of Compliance and Consumer Affairs” and add in their place the words “employees assigned to the Division of Supervision and Consumer Protection”.

c. In paragraph (c)(1)(ii), remove the words “regional office” and “employee’s region” and add in their place the words “regional or area office” and “employee’s region or area”, respectively, and remove the word “and” at the end of the paragraph.

d. In paragraph (c)(1)(iii), remove the period at the end and add in its place a semicolon followed by the word “and”.

e. Add a new paragraph (c)(1)(iv) to read as follows:

##### § 3201.102 Extensions of credit from FDIC-insured depository institutions.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iv) For a field office supervisor and supervisory examiner, credit extended by an FDIC-insured State nonmember bank headquartered outside the field office supervisor’s and supervisory examiner’s respective official territories of assignment through the use of a credit card on the same terms and conditions as are offered to the general public.

\* \* \* \* \*

f. In paragraph (c)(2), remove the words “Division of Supervision, the Director of the Division of Compliance and Consumer Affairs”, “Division of Supervision, or the Director of the Division of Compliance and Consumer Affairs”, and “Division of Supervision and the Division of Compliance and Consumer Affairs” and add in their place the words “Division of Supervision and Consumer Protection”, in each instance.

g. In paragraph (d)(2), remove the words “Division of Insurance” and add in their place the words “Division of Insurance and Research”.

h. In the heading of paragraph (e) and in paragraph (e)(2), remove the words “Division of Depositor and Asset Services” and add in their place the words “Division of Resolutions and Receiverships”.

##### § 3201.109 [Amended]

4. In § 3201.109(a), remove the words “Division of Supervision or Division of Compliance and Consumer Affairs” and add in their place the words “Division of Supervision and Consumer Protection”.

#### 12 CFR Chapter III

#### PART 308—RULES OF PRACTICE AND PROCEDURE

5. The authority citation for part 308 continues to read as follows:

**Authority:** 5 U.S.C. 504, 554–557; 12 U.S.C. 93(b), 164, 505, 1815(e), 1817, 1818, 1820, 1828, 1829, 1829b, 1831i, 1831o, 1831p-1, 1832(c), 1884(b), 1972, 3102, 3108(a), 3349, 3909, 4717; 15 U.S.C. 78(h) and (i), 78o-4(c), 78o-5, 78q-1, 78s, 78u, 78u-2, 78u-3 and 78w; 6801(b), 6805(b)(1), 28 U.S.C. 2641 note; 31 U.S.C. 330, 5321; 42 U.S.C. 4012a; Sec. 3100(s), Pub. L. 104–134, 110 Stat. 1321–358.

##### § 308.102 [Amended]

6. In § 308.102(b)(2), remove the words “Executive Secretary, Deputy

Executive Secretary or the Assistant Executive Secretary (Operations)” and add in their place the words “Executive Secretary and Assistant Executive Secretary”.

#### **PART 309—DISCLOSURE OF INFORMATION**

7. The authority citation for part 309 continues to read as follows:

**Authority:** 5 U.S.C. 552; 12 U.S.C. 1819 “Seventh” and “Tenth”.

#### **§ 309.5 [Amended]**

8. Amend § 309.5 as follows:

a. In paragraph (b)(1), remove the words “Office of the Executive Secretary” and add in their place the words “Freedom of Information Act/Privacy Act Group (“FOIA/PA Group”), Legal Division”.

b. In paragraph (b)(1)(ii), remove the words “to (202) 898–8778” and add in their place the words “to the FOIA/PA Group: (202) 736–0547”.

c. In paragraph (b)(1)(iii), remove the words “By sending a letter to the Office of the Executive Secretary, ATTN: FOIA/PA Unit,” and add in their place the words “By sending a letter to: Legal Division, FDIC, ATTN: FOIA/PA Group.”.

d. In paragraph (d)(1), remove the words “FOIA/PA Unit, Office of the Executive Secretary, shall” in the first sentence and add in their place the words “FOIA/PA Group, Legal Division shall”; and, in the last sentence, remove the words “Office of the Executive Secretary” and add in their place the words “FOIA/PA Group”.

e. In paragraph (d)(2)(i), remove the words “Office of the Executive Secretary” and add in their place the words “FOIA/PA Group”.

f. In paragraph (d)(2)(ii), remove the words “FOIA/PA Unit” and add in their place the words “FOIA/PA Group”.

g. In paragraph (f)(1)(x), remove the words “Executive Secretary” and add in their place the words “FOIA/PA Group, Legal Division”.

h. In paragraph (f)(4)(ii), remove the words “Office of the Executive Secretary, FOIA/PA Unit” and add in their place the words “FOIA/PA Group, Legal Division”.

i. In paragraph (h)(1), remove the words “Office of the Executive Secretary” and add in their place the words “FOIA/PA Group, Legal Division”.

#### **§ 309.6 [Amended]**

9. In § 309.6(b), remove the words “Office of the Executive Secretary” wherever they appear and add in their place the words “FOIA/PA Group”.

#### **§ 309.7 [Amended]**

10. Amend § 309.7 as follows:

a. In paragraph (a), remove the words “Office of the Executive Secretary” and “Office of Corporate Communications” and add in their place the words “Executive Secretary” and “Office of Public Affairs”, respectively.

b. In paragraph (b), remove the words “Office of the Corporation’s General Counsel” and add in their place the words “General Counsel”.

#### **PART 310—PRIVACY ACT REGULATIONS**

11. The authority citation for part 310 continues to read as follows:

**Authority:** 5 U.S.C. 552a.

#### **§ 310.3 [Amended]**

12. In § 310.3(b), remove the words “Office of the Executive Secretary, FOIA/PA Unit, Federal Deposit Insurance Corporation, Washington, D.C. 20429.” in the first sentence and add in their place the words “Freedom of Information Act/Privacy Act Group, Legal Division (“FOIA/PA Group”), Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.”; and, in the last sentence, remove the words “FOIA/PA Unit, Office of the Executive Secretary” and add in their place the words “FOIA/PA Group”.

#### **§ 310.4 [Amended]**

13. In § 310.4(a), remove the words “Office of the Executive Secretary, Records Unit” and add in their place the words “FOIA/PA Group, Legal Division”.

#### **§ 310.5 [Amended]**

14. Amend § 310.5 as follows:

a. In paragraph (b), remove the words “Executive Secretary” and add in their place the words “FOIA/PA Group” in each instance.

b. In paragraph (c), remove the words “The Executive Secretary will give written notification of a reasonable period within which individuals may inspect disclosable records pertaining to themselves at the Office of the Executive Secretary” and add in their place the words “The FOIA/PA Group will give written notification of a reasonable period within which individuals may inspect disclosable records pertaining to themselves at the offices of the FOIA/PA Group”.

#### **§ 310.7 [Amended]**

15. In § 310.7, remove the words “Office of the Executive Secretary, Records Unit, Federal Deposit Insurance

Corporation, Washington, D.C. 20429” and add in their place the words “FOIA/PA Group, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429”.

#### **§ 310.8 [Amended]**

16. In § 310.8(a), remove the words “Executive Secretary of the Corporation” in the first sentence and the words “Executive Secretary” in the second sentence and add in their place the words “Senior Attorney, FOIA/PA Group” in both instances.

#### **§ 310.9 [Amended]**

17. In § 310.9(a), remove the words “Office of the Executive Secretary,” and add in their place the words “FOIA/PA Group, Legal Division,”.

#### **PART 311—RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION’S BOARD OF DIRECTORS**

18. The authority citation for part 311 continues to read as follows:

**Authority:** 5 U.S.C. 552b and 12 U.S.C. 1819.

#### **§§ 311.4, 311.5 and 311.8 [Amended]**

19. In §§ 311.4(e), 311.5(b)(2), and 311.8(d)(2), remove the words “Office of the Executive Secretary” and add in their place the words “Executive Secretary”.

20. In § 311.8(d)(1), remove the words “Office of the Executive Secretary” and add in their place the words “offices of the Executive Secretary”.

#### **PART 337—UNSAFE AND UNSOUND BANKING PRACTICES**

21. The authority citation for part 337 continues to read as follows:

**Authority:** 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1820(d)(10), 1821f, 1828(j)(2), 1831, 1831f–1.

#### **§ 337.10 [Amended]**

22. In § 337.10, remove the words “Office of the Executive Secretary” and add in their place the words “Executive Secretary”.

Dated: November 12, 2002.

Federal Deposit Insurance Corporation.

**Valerie Best,**

*Assistant Executive Secretary.*

Approved: November 20, 2002.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

[FR Doc. 02–30101 Filed 11–27–02; 8:45 am]

**BILLING CODE 6714–01–P**

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 989****[Docket No. FV03-989-2 IFR]****Raisins Produced From Grapes Grown in California; Temporary Suspension of a Provision, and Extension of Certain Deadlines Under the Raisin Diversion Program****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule temporarily suspends the deadline for announcing a 2003 raisin diversion program (RDP) as specified under the Federal marketing order for California raisins (order). This rule also extends certain deadlines within the 2002-2003 crop year concerning the RDP specified in the order's regulations. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). Changes beginning with a possible 2003 RDP have been recommended by the RAC. Currently, there is a November 30 deadline for the RAC to announce a 2003 RDP. This action is needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action will also allow necessary review and evaluation of proposed provisions for such a program. The December 15 deadline for redemption of diversion certificates for the 2002 RDP also is extended, given the lack of sales of those certificates.

**DATES:** Effective: December 2, 2002. Comments received by January 28, 2003, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Maureen T. Pello, Senior Marketing

Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than

20 days after the date of the entry of the ruling.

This rule temporarily suspends an order provision concerning the November 30 deadline by which the RAC must announce a RDP, and extends related deadlines specified under the order's regulations concerning the 2003 diversion program. Changes beginning with a possible 2003 RDP recently have been recommended by the RAC. This action is needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action will also allow necessary review and evaluation of proposed provisions for such a program. This rule also extends the December 15 redemption deadline for diversion certificates for the 2002 Natural (sun-dried) Seedless (NS) RDP, given the lack of sales of those certificates.

**Volume Regulation Provisions**

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are ultimately distributed to producers.

**Raisin Diversion Program**

The RDP is another program concerning reserve raisins authorized under the order and may be used as a means for controlling overproduction. Authority for the program is provided in § 989.56 of the order. Paragraph (e) of that section provides authority for the RAC to establish, with the approval of USDA, such rules and regulations as may be necessary for the implementation and operation of a RDP. Accordingly, additional procedures and deadlines are specified in § 989.156.

These sections currently require the RAC to meet by November 30 each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the

RAC determines that the available supply of raisins, including those in the reserve pool, exceeds projected market needs, it can decide to implement a diversion program, and announce the amount of tonnage eligible for diversion during the subsequent crop year. Producers who wish to participate in the RDP must submit an application to the RAC. The RAC conducts a lottery if the tonnage applied for exceeds what has been allotted. RAC staff then notifies producers whether they have been accepted into the program.

Approved producers curtail their production by vine removal or some other means established by the RAC. Such producers receive a certificate the following fall from the RAC which represents the quantity of raisins diverted. Producers sell these certificates to handlers who pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. Handlers redeem the certificates by presenting them to the RAC, and paying an amount equal to the established harvest cost plus payment for receiving, storing, fumigating, handling, and inspecting the tonnage represented on the certificate. The RAC then gives the handler raisins from the prior year's reserve pool in an amount equal to the tonnage represented on the diversion certificate. The new crop year's volume regulation percentages are applied to the diversion tonnage acquired by the handler (as if the handler had bought raisins directly from a producer).

#### **Extension of Deadlines for 2003 Diversion Program**

The California raisin and grape industries continue to be plagued by burdensome supplies and severe economic conditions. Industry members have been reviewing various options to help address some of these concerns. The RAC has also been reviewing options to help the industry address these issues through the marketing order.

At its October 15, 2002, meeting, the RAC recommended modifications to the RDP that are intended to significantly reduce the industry's oversupply and improve producer returns. Some revisions were proposed by the RAC's Executive Committee at follow-up meetings on October 24 and November 4, 2002. The RAC would like its recommended changes in effect for the 2003 diversion program. Given the November 30 deadline in the order for the RAC to announce a 2003 RDP and other deadlines in the regulations, this action is needed to provide flexibility in

implementing the existing as well as any new provisions of a 2003 RDP. This action will also allow necessary review and evaluation of provisions for such a program.

Specifically, the words "On or before November 30 of" in § 989.56(a) must be suspended until July 31, 2003, which is the end of the 2002–03 crop year. The November 30 date also is specified in § 989.156(a) of the order's regulations. A proviso should be added to § 989.156(a) to allow the RAC to extend this date for the 2003 diversion program to a later date during the 2002–03 crop year. Similar provisos are added to allow the RAC to extend the following dates in § 989.156 for the 2003 diversion program: the December 20 date specified in paragraph (b) whereby producers must submit applications to the RAC to participate in a RDP; the January 12 date specified in paragraph (c) whereby producers must submit corrected applications to the RAC; and the January 15 date specified in paragraph (a) whereby the RAC can allocate additional tonnage to a RDP. Section 989.56(a) and § 989.156 are modified accordingly.

#### **Extension of Redemption Deadline for 2002 Diversion Program**

Section 989.156(k) of the order's regulations specifies that handlers must redeem diversion certificates by December 15 of the crop year for which they were issued. The value of the free tonnage represented on NS raisin diversion certificates has historically been based on a free tonnage field price negotiated by the Raisin Bargaining Association (RBA) and industry handlers. A RBA field price has not yet been established, and most certificates have not been sold by producers. Therefore, § 989.156(k) is modified to specify that, for the 2002 NS RDP, the December 15 redemption deadline may be extended by the RAC to a later date within the 2002–03 crop year.

#### **Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially

small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least \$5,000,000, and the remaining 7 handlers have sales less than \$5,000,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule temporarily suspends a provision specified in § 989.56(a) of the order regarding the November 30 deadline by which the RAC must announce a 2003 RDP, and extends related deadlines in § 989.156 applicable to the 2003 diversion program. This rule also extends the December 15 redemption deadline for 2002 RDP certificates. Under a RDP, producers receive certificates from the RAC for curtailing their production to reduce burdensome supplies. The certificates represent diverted tonnage. Producers sell the certificates to handlers who, in turn, redeem the certificates with the RAC for raisins from the prior year's reserve pool. Authority for these changes to the regulations is provided in § 989.56(e) of the order.

Regarding the impact of this action on affected entities, the suspension of the November 30 meeting date and related extensions applicable to the 2003 diversion program are needed to provide flexibility in implementing the existing as well as any new provisions of a 2003 RDP. This action also will allow necessary review and evaluation of proposed provisions for such a program. Changes beginning with a possible 2003 RDP recently have been recommended by the RAC.

Extending the December 15 deadline for the redemption of 2002 NS RDP certificates is necessary, given the lack of sale of such certificates. Producers will have more time to sell their certificates to handlers, and for handlers to redeem the certificates with the RAC. Equity holders in the 2002 NS reserve pool would all benefit from the extension. Once a field price is established, more transactions regarding the RDP certificates can be completed. Producers can earn income when they

sell the certificates to handlers. Handlers can redeem the certificates for reserve raisins. Finally, equity holders in the 2002 NS reserve pool would earn some return for the raisins allotted to the RDP.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirement referred to in this rule (*i.e.*, the RDP application) has been approved previously by the Office of Management and Budget (OMB) under OMB Control No. 0581-0178. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

USDA is initiating this action to facilitate administration of the order and help the raisin industry through this difficult time. All interested persons are invited to submit information on the regulatory and informational impact of this action on small businesses. Additionally, a small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this rule. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, and other available information, it is hereby found that the order provision temporarily suspended does not tend to effectuate the declared policy of the Act. It is further found that the extension of the deadlines specified in this interim final rule tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule needs to be in place as soon as possible because the order currently requires the RAC to meet on or before November 30, 2002,

and this action would suspend this date for the remainder of the 2002-03 crop year; (2) this rule relaxes certain deadlines currently specified in the order and implementing regulations; and (3) a 60-day comment period is provided and all comments received will be considered in finalizing this rule.

#### List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

#### PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

##### § 989.56 [Suspended in part]

2. In § 989.56, paragraph (a) the words, "On or before November 30 of," are suspended effective December 2, 2002 through July 31, 2003.

3. In § 989.156, paragraph (a)(1), the first sentence in paragraph (b), the last sentence in paragraph (c), paragraph (k), and paragraph (s) are revised to read as follows:

##### § 989.156 Raisin diversion program.

(a)(1) *Quantity to be diverted.*

On or before November 30 of each crop year, the Committee shall announce the quantity of raisins eligible for a raisin diversion program: *Provided*, That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002-03 crop year. On or before January 15 of each crop year, the Committee may announce an increase in the tonnage eligible for a raisin diversion program: *Provided*, That, for the 2002 Natural (sun-dried) Seedless raisin diversion program, the Committee may announce an increase in the quantity of tonnage eligible for the program later than January 15: *And provided further*, That, for the 2003 raisin diversion program, this date may be extended by the Committee to a later date within the 2002-03 crop year. The quantity eligible for diversion may be announced for any of the following varietal types of raisins: Natural (sun-dried) Seedless, Muscat (including other raisins with seeds), Sultana, Zante Currant, Monukka, and Other Seedless raisins. At the same time the Committee shall determine and announce to producers, handlers, and the cooperative bargaining association(s)

the allowable harvest cost to be applicable to such diversion tonnage. The factors to be reviewed by the Committee in determining allowable harvest costs shall include but not be limited to: Costs for picking, turning, rolling, boxing, paper trays, vineyard terracing, hauling to the handler, and crop insurance.

\* \* \* \* \*

(b) *Application for diversion certificates.* Any producer desiring to participate in a raisin diversion program shall file with the Committee, by certified mail, prior to December 20 of the crop year, an application on Form RAC-1000, "Application for a Raisin Diversion Program" together with a copy of any two of the following four documents: Plot Map from the County Hall of Records; irrigation tax bill; county property tax bill; or any other document containing an Assessors Parcel Number: *Provided*, That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002-03 crop year.

\* \* \*

(c) \* \* \* However, such correction must be received by the Committee on or before January 12: *Provided*, That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002-03 crop year.

\* \* \* \* \*

(k) *Redemption of certificates.* Any handler holding certificates may redeem such certificates for reserve pool raisins from the Committee. To redeem a certificate, a handler must present the diversion certificate to the Committee and pay the Committee an amount equal to the established harvest costs plus an amount equal to the payment for receiving, storing, fumigating, handling, and inspecting raisins as specified in § 989.401 for the entire tonnage shown on the certificate. Handlers who acquire diversion certificates from producers shall report acquisitions of such certificates and submit them for redemption in a manner and for the reporting periods provided in § 989.173(b) for the acquisition of raisins acquired from producers. The Committee shall issue a reserve release entitling the handler to an amount of reserve pool raisins equal to the entire amount of tonnage shown on the certificate. Upon receipt of the diversion certificate, the Committee shall note on the certificate that it is cancelled. Diversion certificates will only be valid and honored if presented to the Committee for redemption on or before December 15 of the crop year for which they were issued: *Provided*, That, for the 2002 diversion program for Natural

(sun-dried) Seedless raisins, this date may be extended by the Committee to a later date within the 2002–03 crop year.

\* \* \* \* \*

(s) *Additional opportunity for vine removal.*

The Committee may announce a date later than that provided in § 989.156(b), by which producers, who agree to remove the vines on a production unit may file an application to participate in a raisin diversion program.

(1) For the 2002 Natural (sun-dried) Seedless raisin diversion program, additional opportunity for vine removal shall be provided in accordance with paragraph (u) of this section.

(2) For raisin diversion programs applicable to the 2003 and subsequent crop years, the following provisions apply.

(i) The announced date shall be not later than May 1. The diversion certificates will be issued only for the production units from which vines are removed. The total tonnage available to such applicants shall not exceed the tonnage determined by deducting the tonnage approved for applications received on or before December 20 from the total tonnage announced as eligible by the Committee for diversion: *Provided*, That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. Applications shall be considered and approved on a first-come, first-served, basis and shall not be given preference over the tonnage approved for applications received on or before December 20: *Provided*, That, for the 2003 diversion program, this date may be extended by the Committee to a later date within the 2002–03 crop year. The vines shall be removed from the production units for which such applications are approved not later than June 1.

(ii) Producers who agree to remove the vines pursuant to this paragraph shall notify the Committee in advance of the date when such vines will be removed in order to allow a representative of the Committee to observe and verify such vine removal.

\* \* \* \* \*

Dated: November 25, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02–30355 Filed 11–26–02; 11:02 am]

BILLING CODE 3410–02–P

## FEDERAL ELECTION COMMISSION

### 11 CFR Parts 104, 106, and 300

[NOTICE 2002–24]

#### FEC Policy Statement: Interim Reporting Procedures

**AGENCY:** Federal Election Commission.

**ACTION:** Statement of policy.

**SUMMARY:** During the transition period following the effective date of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), the Commission intends to exercise its discretion by not pursuing the political committees and other persons and entities addressed below for possible violations of the reporting statutes and regulations covered by the instructions set out in this policy statement if they fully adhere to those instructions and timely file the described reports. The limitations on the scope and duration of the policy are discussed in detail below.

**FOR FURTHER INFORMATION CONTACT:** Mr. John C. Vergelli, Acting Assistant General Counsel, Mr. Jonathan M. Levin, Senior Attorney, Mr. Gregory Scott, Assistant Staff Director for Information, and Ms. Debbie Chacona, Reports Analysis Division Chief of Party/Non-Party Branch, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** Congress established a 90-day period during which the Commission was required to promulgate regulations implementing Title I of BCRA regarding certain national, state, and local party committee activities, including reporting of Federal election activity and certain allocable expenses. This period ended on June 25, 2002. Congress also required the Commission to complete the remaining BCRA rulemakings, including those regarding other reporting requirements, in 270 days, which is December 22, 2002. The Commission adopted final rules implementing Title I on June 25, 2002. *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule*, 67 FR 49,064 (July 29, 2002) (“Soft Money Final Rules”). The Commission has also completed four other rulemakings to implement BCRA: (1) Final Rules on Electioneering Communications, 67 FR 65190 (October 23, 2002); (2) Interim Final Rules Regarding FCC Database on Electioneering Communications, 67 FR 65212 (October 23, 2002); (3) Final Rules on Reorganization of Regulations on Contributions and Expenditures, 67 FR 50582 (August 5, 2002); and (4) Final

Rules on Contribution Limitations and Prohibitions, 67 FR 69928 (November 19, 2002). The Commission notes that other BCRA-related reporting rules (e.g., electioneering communications, independent expenditures) are not yet finalized, but are expected to be before December 22, 2002, including the Consolidated Reporting Rulemaking, which the Commission is scheduled to complete on December 12, 2002. Issuance of new and revised reporting forms, software and instructions is dependent upon the finalization of all the reporting rules. However, BCRA’s reporting requirements became effective on November 6, 2002. The Commission is in the process of updating its reporting forms, software, and instructions to incorporate all the new regulations, and will need a period of time after December 22, 2002, to complete this process. In the interim, filers will continue to use existing disclosure forms and software for their December 5th Post General Election Report, January 31st Year End Report and, for monthly filers only, the February Monthly Report, which covers January 2003.

BCRA introduced new reporting responsibilities for political party committees and other reporting entities and significantly changed certain existing requirements. Among the significant changes introduced by BCRA are the reporting by State, district, and local party committees of Federal election activities (“FEA”), including the allocation of some of those activities between Federal funds and “Levin” funds, and revisions in those committees’ allocations of payments between Federal and non-Federal funds. See 11 CFR 300.2(i), 300.36, 106.7, and 104.17. In addition, BCRA introduced provisions for Federal candidates and their committees with respect to candidate funding of his or her own campaign in the form of the “millionaires provision” and provisions for reporting by individuals and entities making electioneering communications. See 2 U.S.C. 434(a)(6)(B), 434(f), and 441a–1(b).

As new forms are now being developed to meet the new requirements, the Commission concludes that a period of transition and adjustment with respect to reporting is needed, including allowance for the continued use of the ballot composition formula in the Post-General and Year End Reports. To assist filers during this transition period, the Commission has developed the interim disclosure

procedures set forth below.<sup>1</sup> These procedures address BCRA-related transactions not contemplated by the existing reporting forms and filing software. Questions concerning these procedures may be directed to the FEC's Information Division, Reports Analysis Division or Electronic Filing Office, as appropriate.

Hence, the Commission intends to exercise its discretion by not pursuing the committees and other persons and entities addressed below for possible violations of the reporting statutes and regulations covered by the instructions set out in this policy statement if the filers fully adhere to those instructions and timely file the reports.

### Interim Reporting Procedures

#### *Interim Disclosure Procedures for State, District and Local Party Committees*

1. Reporting Allocable Administrative and Generic Voter Drive Expenses (that are not Federal Election Activity (FEA)) for November and December 2002

For the December 5th Post General Election report and the January 31st Year End report *only*, state, district and local party committees may continue to allocate administrative and generic voter drive expenses according to the ballot composition ratio for the 2001–2002 election cycle. Committees should report this activity just as they always have: payments should be disclosed on Schedule H4, and transfers from the nonfederal account should appear on Schedule H3. Committees need not submit a new Schedule H1.

2. Reporting Allocable Exempt Activities (that are not FEA) for November and December 2002

For the December 5th Post General Election report and the January 31st Year End report *only*, state, district and local party committees may continue to allocate payments for exempt activities based on the time or space devoted to federal candidates, as compared to the time or space of the entire communication. Committees should report this activity just as they always have: payments should be disclosed on Schedule H4, and transfers from the nonfederal account should appear on Schedule H3.

<sup>1</sup> These procedures also apply to filers involved in special elections held during this period, including the November 30 and January 4 special elections in Hawaii. Those filers should pay special attention to the instructions for disclosing "Federal Election Activity" (defined in 11 CFR 100.24) and "Electioneering Communications" (defined in 11 CFR 100.29), since both are triggered by proximity to an election. See 11 CFR 300.33, 300.36, and proposed 104.20.

### 3. Reporting Receipts of "Levin Funds"

#### • Paper Filers:

—Using a separate Schedule A, itemize each receipt (regardless of amount) as a memo entry. Do not include these receipts in totals or on the Detailed Summary Page.

—IMPORTANT: Label the Schedule A "Levin funds."

—Disclose total "Levin fund" receipts as a lump sum in a cover memo attached to the report.

#### • E-Filers:

—On a Schedule A, itemize each receipt (regardless of amount) as a memo entry. These receipts will not be included in totals or on the Detailed Summary Page.

—IMPORTANT: Use the text entry description field to label the receipt as "Levin funds"

—Disclose total "Levin fund" receipts as a lump sum using a text record.

**Note:** During the transition period, the Commission will allow committees to amend reports to disclose as Levin funds receipts that were not initially disclosed as such. The Commission plans to address this issue more broadly when it finalizes the reporting and filing procedures for BCRA in 2003.

### 4. Reporting Disbursements for Non-Allocable (100% federal) "Federal Election Activities" (i.e., Public Communications and Certain Salary Payments)

#### • Paper Filers:

—Use a separate Schedule B labeled "FEA—100% Federal" to disclose each disbursement, regardless of amount.

—Adjust the totals on the completed Detailed Summary Page by adding the total "FEA—100% Federal" to line 31 "Total Federal Disbursements."

#### • E-Filers:

—Using Schedule B as a model, submit a Form 99 (miscellaneous text submission) labeled "FEA—100% Federal" disclosing for each disbursement, regardless of amount:

- The name of the committee;
- The name, mailing address, city, state and zip code for each payee;
- The date and amount; and
- The purpose of the disbursement.

—To account for these disbursements on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.

—Examples of these transactions in FECFile are available on the Commission's BCRA web page at [http://www.fec.gov/pages/bcra/bcra\\_update.htm](http://www.fec.gov/pages/bcra/bcra_update.htm).

### 5. Reporting the Allocation Formula for Paying Allocable "Federal Election Activities," if any, Conducted in 2002

Use the table below to determine the appropriate formula for allocating "Federal Election Activities," if any, conducted between November 6, 2002, and December 31, 2002.

2002 Races on general election ballot	Federal percentage
A Senate candidate was on the ballot in my state in the 2002 General election.	21% Federal
A Senate candidate was not on the ballot in my state in the 2002 General election.	15% Federal

#### • Paper Filers

—Attach a cover letter, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."

#### • E-Filers

—Add a text record, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."

### 6. Reporting the Allocation Formula Used for Paying Allocable "Federal Election Activities" and for Administrative Expenses and the Cost of Generic Voter Drives, as of January 1, 2003

Use the table below to determine the appropriate allocation formula to use on or after January 1, 2003.

2004 Races on general election ballot	Federal percentage
Presidential and Senate candidates will <i>both</i> be on the ballot in my state in the next regular federal general election.	36% Federal
Presidential candidate, but not a Senate candidate, will be on the ballot in my state in the next regular federal general election.	28% Federal

On the first report disclosing 2003 activity (e.g., February 20th Monthly Report):

#### • Paper Filers

—Attach a cover letter, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."

—Do *not* use the current version of Schedule H–1.

#### • E-Filers

—Add a text record, labeled "H1–FEA," to disclose the applicable federal percentage for allocable "federal election activity."



## 7. Reporting Disbursements for "Federal Election Activities" Allocated Between Federal Funds and "Levin Funds"

### • Paper Filers

- Using Schedule H4 as a model, submit a cover letter labeled "H6—Shared FEA," disclosing:
  - The name of the committee;
  - The name, mailing address, city, state and zip code for each payee;
  - The date of each transaction;
  - The category of federal election activity (e.g., voter registration);
  - The year-to-date total for the activity;
  - The purpose of disbursement;
  - The federal share of each expense;
  - The "Levin fund" share of each expense; and
  - The combined federal/Levin total for each entry.
- As on Schedule H4, multiple entries may appear on each page, and should be subtotaled by page and totaled on the last page.
- Adjust the totals on the *completed* Detailed Summary Page by:
  - Adding the combined federal and Levin fund total from the last page to the total for line 30 "Total Disbursements;" and
  - Adding the total federal share from the last page to the total for line 31 "Total Federal Disbursements."

### • E-Filers

- Using Schedule H4 as a model, submit a Form 99 (miscellaneous text submission) labeled "H6—Shared FEA," disclosing:
  - The name of the committee;
  - The report to which the activity relates (e.g., 2002 Year End Report);
  - The name, mailing address, city, state and zip code for each payee;
  - The date of each transaction;
  - The category of federal election activity (e.g., voter registration);
  - The year-to-date total for the activity;
  - The purpose of disbursement;
  - The federal share of each expense;
  - The "Levin fund" share of each expense; and
  - The combined federal/Levin total for each entry.
- As on Schedule H4, multiple entries may appear on each page of the H6, and should be subtotaled by page and totaled on the last page.
- To account for these disbursements on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.
- Examples of these transactions in FECFile are available on the Commission's BCRA Web page at

[http://www.fec.gov/pages/bcra/bcra\\_update.htm](http://www.fec.gov/pages/bcra/bcra_update.htm).

## 8. Reporting Transfers of "Levin Funds" Into the Federal Account for Shared "Federal Election Activity"

### • Paper Filers:

- Using Schedule H3 as a model, submit a cover letter labeled "H5—Transfers of Levin Funds for Shared FEA," disclosing:
  - The name of the committee;
  - The name of the account (i.e., "Levin");
  - The date of the transfer; and
  - The categorical breakdown of the transfer received on that date (e.g., total voter registration, total GOTV, etc.).
- As on Schedule H3, transfers must be segregated by date on the H5. It is permissible, however, to include transfers occurring on multiple dates on each page, as long as they are segregated by date.
- Aggregate transfers by category should appear at the bottom of the last page of H5.
- Adjust the totals on the *completed* Detailed Summary Page by adding the combined Levin fund transfers to the total for line 19 "Total Receipts."
- Do *not* adjust the total for line 20 "Total Federal Receipts."

### • E-Filers

- Using Schedule H3 as a model, submit a Form 99 (miscellaneous text submission) labeled "H5—Transfers of Levin Funds for Shared FEA," disclosing:
  - The name of the committee;
  - The name of the account (i.e., "Levin");
  - The report to which the activity relates (e.g., 2002 Year End Report);
  - The date of the transfer; and
  - The categorical breakdown of the transfer received on that date (e.g., total voter registration, total GOTV, etc.).
- As on Schedule H3, transfers must be grouped by date on the H5. However, unlike H3, it is permissible to include transfers occurring on multiple dates on a single page, so long as the transfers remain grouped by date.
- Total Levin fund transfers by category should appear at the bottom of the last page of H5.
- To account for these receipts on your regular report (e.g., 2002 Year End Report), adjust the cash on hand figure on line 8 of the Summary Page.
- Examples of these transactions in FECFile are available on the Commission's BCRA web page at [http://www.fec.gov/pages/bcra/bcra\\_update.htm](http://www.fec.gov/pages/bcra/bcra_update.htm).

## Interim Disclosure Procedures for Federal Candidates and Campaign Committees

### 1. Additional Registration Information Pursuant to the "Millionaires Provision"

All candidates seeking election to federal office on/after January 1, 2003, must provide an e-mail address, a fax number and a declaration of intent to expend personal funds.

#### • Paper Filers:

- Attach a cover memo to FEC Form 2, Statement of Candidacy, disclosing an e-mail address, a fax number and a declaration of intent to expend personal funds.
- The declaration should read: "With respect to this election, I intend to expend personal funds totaling [fill in amount]."
- E-Filers:
- Include with Form 2, Statement of Candidacy, a text record disclosing an e-mail address, a fax number and a declaration of intent to expend personal funds.
- The declaration should read: "With respect to this election, I intend to expend personal funds totaling [fill in amount]."

## Interim Disclosure Procedures for Other Types of Filers

### 1. 24-Hour Notice of "Electioneering Communications"

E-mail or fax a report to the FEC disclosing:

- Name, address, occupation and name of employer or principal place of business of the individual or person making the communication;
- Name, address, occupation and name of employer or principal place of business of any person sharing or exercising control over the person making the communication;
- Name, address, occupation and name of employer or principal place of business of the custodian of the books and accounts from which the disbursements for the communication was made;
- If the person making the communication pays for it exclusively from a segregated bank account, the name and address of persons who donate \$1,000 or more to that account, including the date and amount of those donations;
- If the person making the communication does not pay for it exclusively from a segregated bank account, the name and address of persons who donate \$1,000 or more to the person making the communication (regardless of whether those funds are



used to finance the communication), including the date and amount of those donations;

- Disbursements of more than \$200, including the name and address of the payee, date, amount and purpose of the disbursement, the name of the federal candidate, and the election identified in the communication;

- Total donations received and disbursements made in this report;

- Aggregate disbursements year-to-date;

- The disclosure date (*i.e.*, the date when the communication was first publicly distributed); and

- The following statement: "Under penalty of perjury, I certify that this report is true, correct and complete." followed by the name/signature of the person making that statement and the date.<sup>2</sup>

Dated: November 22, 2002.

**David M. Mason,**

*Chairman, Federal Election Commission.*

[FR Doc. 02-30265 Filed 11-27-02; 8:45 am]

BILLING CODE 6715-01-P

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Parts 702, 741 and 747

#### Prompt Corrective Action

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to Congressional mandate, the National Credit Union Administration (NCUA) adopted a comprehensive system of prompt corrective action consisting of minimum capital standards and corresponding remedies to restore the net worth of federally-insured credit unions. After six quarters of implementation, the NCUA Board issued a proposed rule consisting of revisions and adjustments intended to improve and simplify the system of prompt corrective action. As revised to reflect public comments, the NCUA Board now issues a final rule incorporating these improvements.

**DATES:** Effective January 1, 2003.

#### FOR FURTHER INFORMATION CONTACT:

**Legal:** Steven W. Wideman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke St., Alexandria, VA 22314. Telephone: 703/518-6557; **Technical:** Jon Flagg, Loss/Risk Analysis Officer, Office of Examination and Insurance, at

the address above. Telephone: 703/518-6378.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

1. Development of Part 702
2. Where Credit Unions Stand Today
3. Comments on Proposed Rule

##### B. Section-by-section Analysis of Final Rule

1. Section 702.2—Definitions
2. Section 702.101—Measure and effective date of net worth classification
3. Section 702.106—Standard calculation of RBNW requirement
4. Section 702.107—Alternative component for loans sold with recourse
5. Section 702.108—Risk mitigation credit
6. Section 702.201—PCA for "Adequately Capitalized" credit unions
7. Section 702.204—PCA for "Critically Undercapitalized" credit unions
8. Section 702.205—Consultation with State officials on proposed PCA
9. Section 702.206—Net worth restoration plans
10. Section 702.303—PCA for "Adequately Capitalized" new credit unions
11. Section 702.304—PCA for "Moderately Capitalized," "Marginally Capitalized" and "Minimally Capitalized" new credit unions
12. Section 702.305—PCA for "Uncapitalized" new credit unions
13. Section 702.306—Revised business plans for new credit unions
14. Section 702.401—Charges to the regular reserve
15. Section 702.403—Payment of dividends
16. Section 741.3—Adequacy of reserves
17. Section 747.2005—Enforcement of orders

The following acronyms are used throughout:

CUMAA Credit Union Membership Access Act  
 DSA Discretionary Supervisory Action  
 MBL Member Business Loan  
 MSA Mandatory Supervisory Action  
 NWRP Net Worth Restoration Plan  
 OCA Other Corrective Action  
 PCA Prompt Corrective Action  
 RBNW Risk-Based Net Worth  
 RBP Revised Business Plan  
 RMC Risk Mitigation Credit

Throughout the Supplementary Information section, citations to part 702 refer to the current version of 12 CFR 702 *et seq.* (2002) and are abbreviated to the section number only.

##### A. Background

###### 1. Development of Part 702

In 1998, Congress enacted the Credit Union Membership Access Act ("CUMAA"), Pub. L. 105-219, 112 Stat. 913 (1998). CUMAA amended the Federal Credit Union Act ("the Act") to require NCUA to adopt by regulation a system of "prompt corrective action" ("PCA") consisting of minimum capital standards and corresponding remedies

to improve the net worth of federally-insured "natural person" credit unions. 12 U.S.C. 1790d *et seq.* In February 2000, the NCUA Board adopted part 702 and subpart L of part 747, establishing a comprehensive system of PCA that combines mandatory supervisory actions prescribed by statute with discretionary supervisory actions developed by NCUA, all indexed to five statutory net worth categories. 65 FR 8560 (Feb. 18, 2000).

Subpart A of part 702 consists of standards for calculating a credit union's net worth and classifying it among five statutory net worth categories. 12 CFR 702.101-108. Also included in subpart A is a separate risk-based net worth ("RBNW") component that applies to non-"new" credit unions, § 702.102(a)(1)-(2), that satisfy minimum RBNW and asset size requirements, § 702.103, and whose portfolios of assets and liabilities carry above average risk exposure. § 702.104; 65 FR 44950 (July 20, 2000). Subpart B combines mandatory and discretionary supervisory actions indexed to the five categories, as well as PCA-based conservatorship and liquidation. §§ 702.201-206. Subpart C consists of a system of PCA for "new" credit unions. §§ 702.301-307. Subpart D prescribes reserve accounts, requirements for full and fair disclosure of financial condition, and prerequisites for paying dividends consistent with the earnings retention requirement in subpart B. §§ 702.401-403. In addition to these substantive provisions, subpart L of part 747 established an independent review process allowing affected credit unions and officials to challenge PCA decisions. 12 CFR 747.2001 *et seq.* (2000).

Part 702 and subpart L of part 747 were effective August 7, 2000, and first applied to activity in the fourth quarter of 2000 as reflected in the Call Report for that period. The RBNW component of part 702 was effective January 1, 2001, and first applied (for quarterly Call Report filers) to activity in the first quarter of 2001 as reflected in the Call Report for that period.<sup>1</sup>

At the conclusion of the initial PCA rulemaking process, the NCUA Board directed the "PCA Oversight Task Force" (a working group consisting of NCUA staff and State regulators) to review at least a full year of PCA implementation and recommend necessary modifications. 65 FR at

<sup>1</sup> Part 702 has since been amended twice—once to incorporate limited technical corrections, 65 FR 55439 (Sept. 14, 2000), and once to delete sections made obsolete by the adoption of a uniform quarterly schedule for filing Call Reports regardless of asset size. 67 FR 12459 (March 19, 2002).

<sup>2</sup> Submission of false, erroneous or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g.

44964. This final rule is the result of those recommendations, as modified to reflect public comments. The final rule takes effect January 1, 2003, and first applies to activity in the first quarter of

2003 as reflected in the Call Report for that period.

## 2. Where Credit Unions Stand Today

a. *Net worth classification.* As of June 30, 2002, federally-insured credit unions are classified as follows within the PCA net worth categories:

TABLE A -- NET WORTH CLASSIFICATION OF NON-"NEW" FICUS

<i>Statutory net worth category</i>	<i>Net worth ratio</i>	<i># of non-"new" FICUs</i>	<i>Percent of all non-"new" FICUs</i>
"Well Capitalized"	7% or greater	9382	96.49%
"Adequately Capitalized"	6% to 6.99%	231	2.38%
"Undercapitalized"	4% to 5.99%	83	0.85%
"Significantly Undercapitalized"	2% to 3.99%	17	0.17%
"Critically Undercapitalized"	Less than 2%	10	0.10%

TABLE B -- NET WORTH CLASSIFICATION OF "NEW" FICUS

<i>"New" net worth category</i>	<i>Net worth ratio</i>	<i># of "new" FICUs</i>	<i>Percent of all "new" FICUs</i>
"Well Capitalized"	7% or greater	45	49.45%
"Adequately Capitalized"	6% to 6.99%	12	13.19%
"Moderately Capitalized"	3.5% to 5.99%	20	21.98%
"Marginally Capitalized"	2% to 3.49%	8	5.49%
"Minimally Capitalized"	0% to 1.99%	7	7.69%
"Uncapitalized"	Less than 0%	2	2.20%

b. *RBNW requirement.* As of June 30, 2002, 448 federally-insured credit unions—4 percent of the total—were required to meet an RBNW requirement. Of these, 446 met the requirement using the "standard calculation." § 702.106. The two that failed under the "standard calculation" succeeded in meeting their RBNW requirements using the "alternative components." § 702.107. To date, no credit union has completely failed its RBNW requirement, and no credit union has applied for a "risk mitigation credit." § 702.108.

### 3. Comments on Proposed Rule

On June 4, 2002, NCUA issued a proposed rule consisting of revisions and adjustments intended to improve and simplify the system of PCA. 67 FR 38431 (June 4, 2002). By the close of the comment period for the proposed rule, August 5, 2002, NCUA received 26 comment letters. Comments were received from seven federal credit unions, four state credit unions, eight state credit union leagues, two credit union industry trade associations, an association of state credit union supervisors, two banking industry trade

associations, and a Federal Home Loan Bank. Nearly all of the comments supported the series of proposed revisions and adjustments to part 702.

This rulemaking will not address the few comments that suggested modifications to part 702 that exceed the scope of NCUA's statutory authority or that are completely unsupported. Comments on the concept of "safe harbor" approval of a net worth restoration plan are addressed in a separate proposed rule found elsewhere in this volume of the **Federal Register**. All other comments are analyzed generally in section B. below.

## B. Section-by-Section Analysis of Final Rule

### Part 702—Prompt Corrective Action

#### 1. Section 702.2—Definitions

a. *Dividend.* Subpart D of part 702 sets various restrictions and requirements regarding the payment of dividends to members. §§ 702.403, 702.401(d), 702.402(d)(5). To extend these restrictions and requirements to interest that many State-chartered credit unions pay on shares and deposits, the proposed rule introduced a definition of

"dividend" that included "a payment of interest on a deposit by a State-chartered credit union." 67 FR at 38433. While one commenter supported the definition as proposed, two others pointed out that State-chartered credit unions pay interest on non-share deposits pursuant to a contractual obligation, and that restricting the payment of interest would cause a credit union to breach its deposit contract with the member. By comparison, dividends paid on shares entail no such contractual obligation. NCUA concurs with the commenters' point. Accordingly, the final rule omits the proposed definition of "dividends" and, further, eliminates the reference to "interest" in the discretionary supervisory action ("DSA") restricting the payment of dividends. §§ 702.202(b)(3), 702.203(b)(3), 702.204(b)(3). As a result, the term "dividends" as used in part 702 excludes only those payments on shares and deposits that meet a statutory or other legal definition of contractual interest, regardless of the label a credit union gives to such payments.

b. *Senior executive officer.* Part 702 neglected to define who is a “senior executive officer” for purposes of the DSAs that authorize dismissing “a director or senior executive officer,” §§ 702.202(b)(7), 702.203(b)(8), 702.204(b)(8); hiring of a “qualified senior executive officer,” §§ 702.202(b)(8), 702.203(b)(9), 702.204(b)(9); and limiting compensation paid to a “senior executive officer,” §§ 702.203(b)(10), 702.204(b)(10). *See also* 12 CFR 747.2004(a) (review of dismissal of senior executive officer). To correct this oversight, NCUA proposed incorporating by reference the definition of a “senior executive officer” in 12 CFR 701.14(b)(2). 67 FR at 38433. Apart from a misquotation in the preamble to the proposed rule, the sole commenter supported the proposed definition. Accordingly, the final rule adds a new subsection (i) to § 702.2 that incorporates by reference the definition of “senior executive officer” in 12 CFR 701.14(b)(2).

c. *Total assets.* The “average quarterly balance” definition of “total assets” was ambiguous as to whether the phrase “[t]he average of quarter-end balances of the four most recent calendar quarters,” § 702.2(j)(1)(i), refers to the four consecutive quarters *preceding* the then-current quarter, or to the then-current quarter *plus* the preceding three consecutive quarters. The proposed rule revised the definition to adopt the latter meaning. 67 FR at 38433. Apart from a misquotation in the preamble to the proposed rule, the two comments on the definition favored the latter meaning. Accordingly, the final rule redefines the “average quarterly balance” as the average of quarter-end balances of “the current and three preceding calendar quarters.” In addition, the final rule deletes the reference to semiannual first and third quarter Call Reports from the “quarter end balance” definition of “total assets,” § 702.2(l)(1)(iv), to reflect the adoption of a uniform quarterly schedule for filing Call Reports. 67 FR 12457 (March 19, 2002).

## 2. Section 702.101—Measures and Effective Date of Net Worth Classification

For nearly all credit unions, the effective date of net worth classification is the “quarter-end effective date”—“the last day of the calendar month following the end of the calendar quarter.” § 702.101(b)(1). Occasionally, however, an interim effective date between quarter-ends applies instead because “the credit union’s net worth ratio is recalculated by or as a result of its most recent final report of examination.”

§ 702.101(b)(2). This typically results when an NCUA examination that takes place after the quarter-end effective date discloses that the credit union erred in calculating its net worth ratio and the corrected ratio puts it in a different net worth category. In that case, the date the credit union receives the final examination report becomes the new effective date of classification to the proper net worth category.

Several flaws have made it difficult to implement subsection (b)(2). First, it extended to instances where there was no error or misstatement in calculating net worth, but rather, data or conditions simply had changed since the date of the Call Report (which would be reflected in the next quarter’s Call Report). Second, notice to the credit union to correct its net worth ratio had to await the “most recent report of final examination” even when an earlier supervision contact disclosed a calculating error or misstatement. Third, postponing such notice may deprive the credit union of the opportunity to take corrective action sooner. To rectify these flaws, the proposed rule revised subsection (b)(2) to define the effective date of classification to a “corrected net worth category” as “the date the credit union receives subsequent written notice . . . of a decline in net worth category due to correction of an error or misstatement in the credit union’s most recent Call Report.” 67 FR 38434. NCUA received three comments on this section, all favoring these revisions. Therefore, the final rule adopts them as proposed.

## 3. Section 702.106—Standard Calculation of RBNW Requirement

The proposed rule suggested no modifications to the standard component for “member business loans outstanding” (“MBLs”). § 702.106(b). However, one commenter contended that the 12.25 percent risk-weighting threshold in that component was arbitrarily based on CUMAA’s restriction on member business lending, 12 U.S.C. 1757a(a)(2), and proposed that the threshold be increased to 25 percent. After considering this suggestion, the NCUA Board has determined that the existing 12.25 percent threshold warrants reconsideration in connection with its review of the current MBL regulation, 12 CFR 723. Pending reconsideration, a credit union has two alternatives if it finds that the 12.25 percent threshold distinguishes risk weightings among MBLs imprecisely. First, to resort to the corresponding alternative component for MBLs, § 702.107(b), which measures finer increments of risk among fixed-

and variable rate MBLs. And second, to seek a risk mitigation credit, § 702.108, to moderate the impact of the standard risk-weightings. Accordingly, the existing 12.25 percent threshold is retained at this time.

## 4. Section 702.107—Alternative Components for Standard Calculation

a. *Alternative component for long-term real estate loans callable in 5 years or less.* For long-term real estate loans, part 702 features both a “standard component” and an “alternative component” for the RBNW calculation. §§ 702.106(a), 702.107(a). The longer the maturity of the loan, the greater the interest rate risk and credit risk exposure, justifying a correspondingly greater risk-weighting. *See* 65 FR at 44960–44961. Both components scheduled loans by contractual maturity date regardless whether there is a “call” feature permitting the lender to redeem the loan before the maturity date. The NCUA Board declined to propose scheduling “callable” loans by “call” date, rather than by maturity date, for reasons explained in the proposed rule. 67 FR at 38435. Instead, the NCUA Board suggested than an offsetting risk mitigation credit under § 702.108 was well suited to recognize when a credit union’s program and history of efficiently exercising “call” options truly mitigates risk.

Six commenters objected that the NCUA Board’s position denies them a reduced risk-weighting even though a “call” feature gives them the flexibility to shorten the term of real estate loans, thereby mitigating interest rate risk, and credit risk due to deterioration of the borrower’s ability to repay or the collateral’s value. One commended the “call” feature as a risk management tool. Another advocated allowing use of the “call” date, in lieu of the maturity date, on a credit union-by-credit union basis. And finally, a commenter recommended categorizing “callable” and non-“callable” loans separately and assigning lower risk weightings to the “callable” category to reflect its reduced interest rate risk. In light of these comments, the NCUA Board has reconsidered its position and now recognizes that a “call” feature, when exercised in good faith, provides some measure of risk mitigation for real estate loans.<sup>2</sup>

<sup>2</sup> The alternative component for MBLs continues to categorize MBLs by fixed- and variable-rate and then schedules the loans in each category for risk-weighting by remaining maturity. § 702.107(b). The NCUA Board is not scheduling MBLs by “call” date at this time out of concern for credit risk upon exercise of the “call” feature. However, this issue also may receive further consideration in

Accordingly, the final rule expands the existing alternative component for “long-term real estate loans” to add a separate schedule for loans that are “callable” within a maximum period of 5 years. § 702.107(a)(2). The schedule consists of three maturity buckets that correspond to the buckets in the non-“callable” schedule. See new Table 5(a) and new Appendixes C in rule text below. A loan that is “callable” within 5 years, and that has remaining maturity of less than 5 years, receives the same six percent risk-weighting that the existing alternative component gives to a non-“callable” loan with a remaining maturity of less than 5 years. A loan that is “callable” within 5 years, and that has a remaining maturity of more than 5 years, receives a risk weighting that is two percentage points lower than the weighting for the corresponding non-“callable” maturity bucket. To qualify for the “callable” schedule, the “call” feature must be contractually specified in the loan documents and the credit union must maintain records documenting the breakdown of “callable” loans by maturity bucket.

b. *Alternative component for loans sold with recourse.* The standard component for loans sold with recourse assigns a uniform risk-weighting of 6 percent to the entire balance, § 702.106(f), regardless whether it includes loans sold with only *partial* recourse against the seller. Since part 702 was adopted, recourse loan activity among credit unions has nearly doubled, and loan programs have emerged that contractually limit the extent of the purchaser’s recourse to the seller.<sup>3</sup> Thus, credit unions have gained the ability to cap their credit risk exposure from the sale of recourse loans.

In view of these developments, the proposed rule added a fourth alternative component to § 702.107 that would allow variable risk-weighting according to the actual credit risk exposure of loans sold with a contractual recourse obligation of less than 6 percent. 67 FR at 38434. The proposed alternative component is the sum of two risk-weighting buckets. The first bucket consists of the balance of loans sold with contractual recourse obligations of six percent or greater; it is risk-weighted at a uniform six percent. § 702.107(d)(1). The second bucket consists of the

balance of loans sold with contractual recourse obligations of less than six percent; it is risk-weighted according to the weighted average recourse percent of its contents, as computed by the credit union.<sup>4</sup> § 702.107(d)(2); see new Table 5(d) and new Appendixes F and G in rule text below. Eight comments addressed the proposed “alternative component” for loans sold with recourse, all supporting it. Therefore, the final rule adopts the new alternative component in § 702.107(d) as proposed.

c. *Alternative component for short-term government obligations.* Although the proposed rule did not reference government obligations, a single commenter proposed an alternative component for government obligations with maturity of one year or less. Under the proposal, these obligations, up to a total equivalent to 25 percent of a credit union’s total assets, would receive a zero risk weighting. The NCUA Board is unsympathetic to this proposal because the existing standard component for “investments” gives a risk-weighting of three 3 percent-half the six percent risk weighting assigned to average risk assets—to government obligations with a maturity of one year or less. § 702.106(c)(1). Government obligations are not completely risk free, as a zero risk-weighting suggests. On the contrary, they carry interest rate risk and transaction risk that justify a three percent risk weighting. Accordingly, the commenter’s proposal is not adopted.

#### 5. Section 702.108—Risk Mitigation Credit

Part 702 permits a credit union that fails an applicable RBNW requirement under both the “standard calculation” and the “alternative components” to apply for a “risk mitigation credit” (“RMC”). § 702.108(a). If granted, an RMC will reduce the RBNW requirement that must be met.<sup>5</sup> But NCUA will not consider an application for this relief until after the effective date that a credit union fails its RBNW requirement. *Submission Guidelines*

<sup>4</sup> To calculate the “weighted average recourse percent” of the bucket of loans sold with recourse <6%, multiply each percentage of contractual recourse obligation by the corresponding balance of loans sold with that recourse to derive the total dollars of recourse. Divide the total dollars of recourse by the total dollar balance of loans sold with <6% recourse to derive the alternative risk weighting. See Appendix G in rule text below.

<sup>5</sup> To aid credit unions seeking a “Risk Mitigation Credit,” NCUA has released two publications: *Guidelines for Submission of an Application for PCA “Risk Mitigation Credit”* (NCUA form 8507) (“*Submission Guidelines*”) and *Guidelines for Evaluation of an Application for PCA “Risk Mitigation Credit”* (NCUA for 8508). The *Submission Guidelines* will be modified to reflect the revisions to § 702.108 adopted in this final rule.

§ 1.3. This forces a failing credit union to remain classified “undercapitalized” while its RMC application is pending, *id.* §§ 1.4, 1.8, even when it reasonably expects to fail because it either failed or barely passed in a preceding quarter.

To spare credit unions that are genuinely in danger of failing an RBNW requirement from the “fail first” prerequisite, the proposed rule allowed them to apply for an RMC preemptively—that is, to apply in advance of the quarter-end so that the credit union receives any RMC for which it qualifies *before* the approaching effective date when it would fail its RBNW requirement. 67 FR at 38434. As revised, § 702.108 would allow a credit union to apply for an RMC at any time before the next quarter-end effective date if on any of the current or three preceding effective dates of classification it has either failed an applicable RBNW requirement, or met it by less than 100 basis points. An RMC granted preemptively would allow a credit union genuinely at risk of failing an RBNW requirement to seamlessly maintain its initial classification as either “adequately capitalized” or “well capitalized.” The nine commenters who addressed this endorsed the proposed relaxation of the RMC application prerequisites. Therefore, the final rule adopts the revisions to § 702.108 as proposed.

#### 6. Section 702.201—PCA for “Adequately Capitalized” Credit Unions

a. *Earnings retention.* The proposed rule identified two flaws in the operation of the quarterly earnings retention requirement that applies to credit unions classified “adequately capitalized” or lower. First, that subsection (a) failed to specify that it is the dollar amount of net worth that must increase by the equivalent of 0.1 percent of assets per quarter, not the net worth ratio itself. (Changes in the net worth ratio will not match changes in the dollar amount of net worth unless net worth and total assets were to increase or decrease by exactly the same percentage.) Second, that subsection (a) technically does not allow credit unions to meet the statutory annual minimum transfer of the equivalent of 0.4 percent of total assets *on an average basis* over four quarters. As originally written, that subsection requires that the equivalent of 0.1 percent of assets be set aside in each and every quarter of the year, regardless whether the credit union has set aside more than the quarterly minimum in prior quarters.

To address both flaws, the proposed rule revised subsection (a) to specify that it is the “the dollar amount” of net

connection with NCUA’s review of the current MBL regulation, 12 CFR.

<sup>3</sup> For example, documentation for the loan sale transaction may provide for recourse in the form of a contractually-specified recourse obligation measured either by a designated dollar amount that is fixed for the life of the loan, or by a designated percentage of the unpaid balance of a pool of loans.

worth that must be increased, not the net worth ratio itself, and to permit the minimum increase to be made "either in the current quarter, or on average over the current and three preceding quarters." None of the commenters addressed these revisions. Therefore, the final rule adopts them as proposed.

b. *Decrease in retention.* Subsection (b) authorized NCUA, on a case-by-case basis, to permit a credit union to increase net worth by an amount that is less than the quarterly minimum (equivalent of 0.1 percent of assets) when necessary to avoid a significant redemption of shares and to further the purpose of PCA. § 702.201(b); 12 U.S.C. 1790d(e)(2). Since the adoption of part 702, however, some credit unions have decreased their quarterly earnings retention, either without seeking NCUA's permission at all, or prior to seeking NCUA's permission, in order to pay dividends as they deem necessary. To prevent unilateral decreases in earnings retention, the proposed rule revised subsection (b) to add the requirement that a request to decrease earnings retention must be submitted in writing no later than 14 days before the quarter end. NCUA would be under no obligation to grant applications submitted after the 14-day deadline expires or after the quarter-end. Further, NCUA would be entitled to take supervisory or other enforcement action against credit unions that either decrease their earnings retention without permission, or persist in failing to timely apply for permission.

Two commenters advocated a more flexible approach—making the application period negotiable, and accepting verbal applications after the deadline, both on a case-by-case basis. The NCUA Board continues to believe that a documented request submitted within a "bright line" time frame is necessary for two reasons. First, to give credit unions clear notice of when they must apply for a decrease. Second, to facilitate uniform discipline of credit unions that unilaterally pay dividends without advance permission to decrease their earnings retention. A third commenter objected that a request to decrease earnings retention should not be required when a credit union is operating under an approved net worth restoration plan ("NWRP") that projects quarterly earnings retention that is less than the minimum. *See* § 702.206(c)(1)(ii). In fact, a separate request for a decrease is not required under these circumstances because, as explained below, earnings retention is effectively subject to quarterly evaluation as a function of the NWRP. For these reasons, the final rule adopts

the revisions to subsection (b) as proposed.

c. *Decrease by FISCO.* The requirement to "consult and seek to work cooperatively" with State officials when deciding whether a State-chartered credit union may decrease its earnings retention was originally located in § 702.205(c), where it was misidentified as a DSA. Because § 702.205(c) applies only to DSAs, the final rule relocates the "consult and work cooperatively" requirement to a new subsection (c) of § 702.201.

d. *Periodic review.* Part 702 provides that a decision permitting a decrease in earnings retention is "subject to review and revocation no less frequently than quarterly." § 702.201(b); 12 U.S.C. 1790d(e)(2)(B). In practice, the "no less frequently than quarterly" timetable is too vague to indicate when such a review must take place. To coincide with the quarterly Call Reporting schedule that drives part 702, the proposed rule added a new subsection (d) to require uniform "quarterly review and revocation," except when a credit union classified "undercapitalized" or lower is operating under an approved NWRP. NCUA received no comments on this modification.

For "adequately capitalized" credit unions (for whom earnings retention is the only MSA), quarterly review is implicit because a request to decrease earnings retention already must be renewed on a quarter-by-quarter basis. However, for credit unions classified "undercapitalized" or lower, separate quarterly review would be redundant when an approved NWRP is in place. To be approved, an NWRP must, in addition to prescribing quarterly net worth targets, § 702.206(c)(1)(i), project the amount of earnings retention, decreased as permitted by NCUA, for each quarter of the term of the NWRP. § 702.206(c)(1)(ii). Typically, approved NWRPs permit decreases in earnings retention extending for successive quarters over the term of the plan. These decreases are effectively subject to quarterly review and revocation as a function of the NWRP. A credit union that falls to a lower net worth category because it failed to implement the steps or to meet the quarterly net worth targets in its NWRP may be required to file a new NWRP, § 702.206(a)(3), thereby revoking the then-current NWRP approving future decreases in earnings retention. *See also* 12 CFR 747.2005(b)(3) (civil money penalty for failure to implement NWRP). In contrast, when a credit union is implementing the prescribed steps and meeting its net worth targets, there likely would be no reason to

discontinue the decreased earnings retention approved in its NWRP.

Because quarterly review is effectively built-in to the NWRP, proposed new subsection (d) exempted credit unions operating under an NWRP from the quarterly review that § 702.201 imposes on "adequately capitalized" credit unions. NCUA received no comments on this exemption. Accordingly, the final rule adopts new subsection (d) as proposed.

#### 7. Section 702.204—PCA for "Critically Undercapitalized" Credit Unions

a. *"Other corrective action".* When a credit union becomes "critically undercapitalized" (net worth ratio <2%), part 702 gives the NCUA Board 90 days in which to either place the credit union into conservatorship, liquidate it, or impose "other corrective action \* \* \* to better achieve the purpose of [PCA]." 12 U.S.C. 1790d(i)(1); § 702.204(c)(1). NCUA so far has interpreted the option to impose "other corrective action" ("OCA") as requiring some further action in addition to complying with the steps prescribed in an approved NWRP for meeting quarterly net worth targets. Some further action would seem appropriate when a credit union either is not complying with its approved NWRP, or is implementing the prescribed action steps but still failing to achieve its quarterly net worth targets. But when a credit union has been both implementing the steps in its NWRP and timely achieving its net worth targets, demanding further action is superfluous, if not punitive. NCUA has found it difficult to fashion OCA that is more than a makeweight in these circumstances.

Congress left it entirely to the NCUA Board to "take such other action" in lieu of conservatorship and liquidation "as the Board determines would better achieve the purpose of [PCA], after documenting why the action would better achieve that purpose." 12 U.S.C. 1790d(i)(1)(b). *See also* S. Rep. No. 193, 105th Cong., 2d Sess. 15 (1998). The NCUA Board has determined that the purpose of PCA—building net worth to minimize share insurance losses—is not undermined by declining to impose OCA when it is documented that a credit union already is achieving the purpose of PCA by complying with an approved NWRP and achieving its prescribed net worth targets. In other words, there would be no reason to demand more than complete success from a credit union that, so far, is completely successful in building net worth.

To implement a more flexible approach to imposing OCA in lieu of conservatorship and liquidation, the proposed rule revised subsection (c)(1)(iii) to provide that “[OCA] may consist, in whole or in part, of complying with the timetable of quarterly steps and meeting quarterly net worth targets prescribed in an approved [NWRP].” § 702.204 (c)(1)(iii). This would permit, but not require, NCUA to limit OCA to directing a credit union that already is in compliance with its approved NWRP to simply continue to comply, without undertaking any further action beyond what the NWRP already requires. NCUA received two comments; both supported this shift in approach to implementing OCA. Accordingly, the final rule adopts revised subsection (c)(1)(iii) as proposed.

b. *10-day appeal period.* The NCUA Board’s authority to decide whether to conserve a “critically undercapitalized” credit union, liquidate it, or allow OCA may be delegated only in the case of credit unions having assets of less than \$5 million. 12 U.S.C. 1790d(i)(4); § 702.204(c)(4). In such cases, the credit union has a statutory “right of direct appeal to the NCUA Board of any decision made by delegated authority.” *Id.* However, neither the Act nor part 741 sets a deadline by which a credit union must appeal a delegated decision to the NCUA Board. The lack of a deadline for exercising the right to appeal delegated decisions to the NCUA Board gives “critically undercapitalized” credit unions at least the appearance of an unlimited opportunity to challenge a Regional Director’s decision.

To impose similar finality upon the unfolding timetable of decisions that starts when a credit union becomes “critically undercapitalized,” the proposed rule revised subsection (c)(4) to set a deadline of ten calendar days in which to appeal a delegated decision. Objecting that 10 days is too few for small credit unions with unsophisticated management, the one commenter who addressed this section advocated a 30-day appeal period instead. However, the final rule adopts the proposed 10-day appeal period for two reasons. First, it parallels the 10-day window that the Act provides for seeking judicial review of any statutory conservatorship or liquidation. 12 U.S.C. 1786(h)(3), 1787(a)(1)(B). Second, a longer appeal period would unreasonably delay the payout of shares to members that must promptly follow a liquidation.

c. *Insolvent FCU.* The NCUA Board generally must liquidate a credit union

eventually if it remains “critically undercapitalized.” § 702.204(c). Independently of PCA, however, the Act directs that “[u]pon its finding that a Federal credit union \* \* \* is insolvent, the Board shall close such credit union for liquidation.” 12 U.S.C. 1787(a)(1)(A). Therefore, in the case of a “critically undercapitalized” federal credit union that is insolvent (*i.e.*, has a net worth ratio of less than zero), NCUA has the option of an insolvency-based liquidation. To clarify that this option is available, new subsection (d) to § 702.204 provides that “a ‘critically undercapitalized’ federal credit union that has a net worth ratio of less than zero percent (0%) may be placed into liquidation on grounds of insolvency pursuant to [§ 1787(a)(1)(A)].”

#### 8. Section 702.205—Consultation With State Officials on Proposed PCA

As explained above in reference to new subsection (c) of § 702.201, a cross-reference in § 702.205(c) misidentified the decision whether to permit a decrease in a FISCUS’s quarterly earnings retention as a DSA. To correct this error, the final rule deletes the erroneous cross-reference and relocates the “consult and seek to work cooperatively” requirement in § 702.201(c).

#### 9. Section 702.206—Net Worth Restoration Plans

a. *Contents of NWRP.* Section 702.206 prescribes the contents of an NWRP that must be submitted for approval by credit unions classified “undercapitalized” or lower.<sup>6</sup> Among the items an NWRP must address is how the credit union will comply with MSAs and DSAs. § 702.206(c)(1)(iii). Some credit unions that were *not* subject to a DSA interpreted that requirement as a demand either to consent to a DSA, or to explain prospectively how the credit union *would* comply with DSAs if the NCUA Board were to impose any. The proposed rule revised subsection (c)(1)(iii) to clarify that an NWRP need only address whatever DSAs, if any, the NCUA Board *already* has imposed on the credit union. The one commenter who addressed this revision supported it. The final rule adopts revised subsection (c)(1)(iii) as proposed.

b. *Publication of NWRP.* Publication of an NWRP is not a prerequisite to enforcing its provisions as authorized in 12 CFR 747.2005, but this fact is not expressly stated in § 702.206 itself. The

omission has led some to assume that an NWRP, like a “Letter of Understanding and Agreement,” must be published in order to subsequently be enforceable. The Act mandates that a “written agreement or other written statement” must be published in order for a violation to be enforceable “unless the Board, in its discretion, determines that publication would be contrary to the public interest.” 12 U.S.C. 1786(s)(1)(A). To the extent an NWRP qualifies as a “written agreement or other written statement” under § 1786(s)(1)(A), the NCUA Board does not intend to publish NWRPs because it has determined that publication would expose the credit union to reputation risk that would be contrary to the public interest. Therefore, the proposed rule added new subsection (i) to § 702.206, clarifying that “An NWRP need not be published to be enforceable because publication would be contrary to the public interest.” NCUA received two comments on the clarification and both supported it. Therefore, the final rule adopts new subsection (i) as proposed.

c. *Alternative capital.* The proposed rule did not reference subsection (e), which permits consideration of any “regulatory capital” a credit union may have in evaluating an NWRP. Nonetheless, NCUA received three comments urging the adoption of some form of alternative capital not only to be considered in evaluating an NWRP, but also to offset an applicable RBNW requirement. A fourth commenter opposed alternative capital in any form. The final rule does not address these comments because this rulemaking was not intended by the NCUA Board to be a forum for exploring or introducing alternative forms of capital.

#### 10. Section 702.303—PCA for “Adequately Capitalized” New Credit Unions

Under the original alternative system of PCA for new credit unions, a credit union that managed to become “adequately capitalized” while still new was subject to the same minimum earnings retention that applies to non-new credit unions that are “adequately capitalized.”<sup>7</sup> § 702.201(a). In contrast, “new” credit unions that stayed classified below “adequately capitalized” were not subject to minimum earnings retention; they had to increase net worth only “by an amount reflected in the credit union’s

<sup>6</sup> As noted earlier in this preamble, the comments on the concept of “safe harbor” approval of an NWRP are addressed in a separate proposed rule found elsewhere in this volume of the **Federal Register**.

<sup>7</sup> The final rule corrects the wording of § 702.303, which inadvertently extended that section to “new” credit unions classified lower than “adequately capitalized.” Sections 702.304 and 702.305 continue to prescribe PCA for new credit unions in those net worth categories.

approved initial or revised business plan.” § 702.304(a)(1). This created a disincentive for a “new” credit union to become “adequately capitalized” because the reward for keeping its net worth ratio below 6 percent is that it is relieved from complying with a minimum earnings retention amount.

To eliminate the disincentive, the proposed rule put all new credit unions having a net worth lower than 7 percent in parity for purposes of earnings retention. 67 FR at 38437. An “adequately capitalized” new credit union would no longer be subject to the same minimum earnings retention as a non-new counterpart. Instead, like new credit unions in lower categories, it would be required to increase net worth quarterly by “an amount reflected in its approved initial or revised business plan” until it becomes “well capitalized.” In the absence of such a plan, however, the credit union would remain subject to the same quarterly minimum earnings retention as non-“new” credit unions.

Two commenters supported parity among new credit unions for earnings retention purposes. Advocating a far less flexible approach, a third commenter (a banking industry trade association) objected that exempting any new credit unions from the statutory minimum earnings retention is not in accordance with CUMAA. That commenter overlooks the fact that CUMAA applies a minimum earnings retention requirement to non-new credit unions; it prescribed no earnings retention requirement at all for new credit unions. 12 U.S.C. 1790d(e)(1). Instead, CUMAA gave NCUA discretion in developing an alternative system of PCA, provided that it recognized that new credit unions initially have no net worth; need reasonable time to accumulate net worth; and need incentives to become “adequately capitalized” by the time they no longer qualify as “new.” 12 U.S.C. 1790d(b)(2)(B). See 64 FR 27090, 27098 (May 18, 1999) (justification for flexible approach). It is entirely consistent with this last statutory criterion to eliminate any disincentive—such as *minimum* earnings retention—for a new credit union to reach “adequately capitalized” while it is still “new.”

**11. Section 702.304—PCA for “Moderately Capitalized,” “Marginally Capitalized” and “Minimally Capitalized” New Credit Unions**

As explained above, the final rule modifies § 702.201(a) to specify that earnings retention must increase the “the dollar amount” of net worth, not simply the net worth ratio itself. To

conform to that modification, § 702.304(a)(1) is revised accordingly.

**12. Section 702.305—PCA for “Uncapitalized” New Credit Unions**

a. *Member business loan restriction.* Part 702 originally gave an “uncapitalized” new credit union full relief from all MSAs while it was operating within the period allowed by its initial business plan to have no net worth. § 702.305(a). An unintended consequence of this forbearance was that “uncapitalized” credit unions were free of the MSA restricting MBLs; that restriction applied only when a credit union managed to attain *some* net worth and rise to the “minimally capitalized” net worth category.<sup>8</sup> Yet a “minimally capitalized” credit union arguably is better suited to expand its MBL portfolio than one that remains “uncapitalized.” Further, making PCA *more* demanding as a credit union’s net worth and category classification improve, rather than relaxing it, is contrary to the purpose of PCA. To rectify this unintended consequence, the proposed rule extended subsection (a) to include an “uncapitalized” new credit union that is operating with no net worth as permitted by an initial business plan. 67 FR at 38437. As a result, “uncapitalized” new credit unions are all subjected to the MBL restriction, § 702.305(a)(3), regardless whether they are operating with no net worth under an initial business plan, or have declined to “uncapitalized” after reaching a higher net worth category. NCUA received no comments on this section. Accordingly, the final rule adopts revised subsection (a) as proposed.

b. *Filing of revised business plan.* Subsection (a)(2) generally required an “uncapitalized” new credit union to submit a revised business plan (“RBP”) within 90 days following either of two events—expiration of the period that the credit union’s initial business plan allows it to operate with no net worth, or the effective date that it declined to “uncapitalized” from a higher net worth category. This contrasts with the 30-day period that “moderately capitalized,” “marginally capitalized” and “minimally capitalized” credit unions are given to file an RBP. § 702.306(a)(1). Ninety days is an unduly long filing period given that an “uncapitalized” credit union faces mandatory conservatorship or liquidation if it fails to increase net worth to at least two

percent. Furthermore, it is counterintuitive to give a credit union that *has* a net worth deficit three times as long to devise a plan for generating positive earnings than is given to credit unions that already have net worth.

The proposed rule put all new credit unions that must file an RBP in parity. First, it deleted the 90-day filing window for “uncapitalized” credit unions, thereby limiting them to the general 30-day window, once they are required to file an RBP. 67 FR at 38438. Second, it reorganized subsection (a)(2) to parallel the conditions that trigger other less than “adequately capitalized” new credit unions to revise their business plans, § 702.304(a)(2), even though only “uncapitalized” credit unions are initially allowed to operate with no net worth. To that end, the proposed rule required an “uncapitalized” credit union to submit an RBP if it either: fails to increase net worth (*i.e.*, reduce its earnings deficit) as its existing business plan provides; has no approved business plan; or has violated the MSA restricting MBLs.

The sole commenter on this topic supported the 30-day window for filing an RBP, while also urging NCUA to relieve the burden on new credit unions by providing assistance in preparing RBPs. See § 702.307(a) (assistance in preparing RBPs). For the reasons set forth above in this section, the revisions to subsection (a)(2) are adopted as proposed.

c. *Liquidation or conservatorship if “uncapitalized” after 120 days.* Subsection (c)(2) generally required the NCUA Board to conserve or liquidate an “uncapitalized” new credit union that remains “uncapitalized” 90 days after its RBP is approved. It was silent, however, regarding conservatorship or liquidation of a credit union whose RBP is rejected. To correct this oversight, the proposed rule mandated conservatorship or liquidation of an “uncapitalized” new credit union after a 120-day period regardless whether an RBP has been approved or rejected. 67 FR at 38438. This period combines the 30-day window for submitting an RBP, § 702.306(a)(1), and the original 90-day period allowed for the credit union to develop sufficient positive earnings to avoid conservatorship and liquidation. The 120-day period runs from the later of either the effective date of classification as “uncapitalized” or, if a credit union is operating with no net worth in the period prescribed by its initial business plan, the last day of the calendar month after expiration of that period. Because the period for operating with no net worth typically runs on a quarterly basis, the last day of the

<sup>8</sup> The earnings retention requirement, § 702.305(a)(1), is ineffective against an “uncapitalized” credit union because a credit union that *has* an undivided earnings deficit has no net worth to retain.



calendar month after it expires parallels the calendar month that separates the quarter-end and the effective date of classification as “undercapitalized.”

NCUA received no comments on the revisions to subsection (c)(2) and, therefore, they are adopted as proposed. In addition, the final rule relocates to a new subsection (c)(3) the existing exception to mandatory conservatorship or liquidation for a credit union that is able to demonstrate that it is viable and has a reasonable prospect of becoming “adequately capitalized.”

d. *“Uncapitalized” new FCU.* As explained above in reference to new subsection (d) of § 702.204, there are two options for liquidating a federal credit union that has no net worth—a PCA-based liquidation, 12 U.S.C. 1787(a)(3)(A)(ii), or an insolvency-based liquidation, 12 U.S.C. 1787(a)(1)(A). Both are available when a new federal credit union either fails to timely submit an RBP, § 702.305(c)(1), or remains “uncapitalized” 120 days after the effective date of classification, § 702.305(c)(2). To clarify that this option is available, the final rule adds new subsection (d) to § 702.305, providing that “an ‘uncapitalized’ federal credit union may be placed into liquidation on grounds of insolvency pursuant to [§ 1787(a)(1)(A)].”

### 13. Section 702.306—Revised Business Plans for New Credit Unions

a. *Filing schedule.* Subsection (a)(1) required “moderately capitalized,” “marginally capitalized” and “minimally capitalized” credit unions to file an RBP within 30 days after failing to meet a quarterly net worth target prescribed in an existing business plan. As discussed above, the final rule eliminates the 90-day filing window for “uncapitalized” credit unions. § 702.305(a)(2). To conform to that modification, the final rule also modifies subsection (a)(1) to apply the 30-day filing window uniformly to all new credit unions classified less than “adequately capitalized” or that have violated the MSA restricting MBLs. §§ 702.304(a)(3), 702.305(a)(3).

The original rule’s 30-day filing period ran from “the effective date (per § 702.101(b)) of the credit union’s failure to meet a quarterly net worth target prescribed in its then-present business plan.” § 702.306(a)(1). Even as revised, however, § 702.101(b), which addresses the effective date of classification among the net worth categories, says nothing to determine when a quarterly net worth target is met. The subtlety of this distinction may confuse credit unions that have no then-present approved business plan or have

violated the MSA restricting MBLs. Therefore, the proposed rule further revised subsection (a)(1) to effectively give new credit unions that fail to meet a quarterly target 60 days following the quarter-end to file an RBP.

§ 702.306(a)(1)(i). The 60-day period combines the calendar month that separates the quarter-end from the effective date of classification, with the uniform 30-day filing period that commences on the effective date. Finally, the proposed rule revised subsection (a)(1) still further to clarify that, for new credit unions that either have no approved business plan or that have violated the MBL restriction, the effective date of classification as less than “adequately capitalized” triggers the 30-day window for filing an RBP. § 702.306(a)(1)(ii)–(iii). NCUA received no comments on the revisions to the filing schedule for RBPs. Accordingly, revised subsection (a)(1) is adopted as proposed.

b. *Timetable of net worth targets.* Subsection (b)(2) prescribed the contents of an RBP, which must include a timetable of quarterly net worth targets extending for the term of the plan “so that the credit union becomes ‘adequately capitalized’ and remains so for four consecutive quarters.” It also warned that a “complex” new credit union that is subject to an RBNW requirement may need to attain a net worth ratio higher than 6 percent to become “adequately capitalized.” The proposed rule rectified two flaws in this section. First, in contrast to an NWRP, the objective of an RBP is to build net worth so that a new credit union becomes “adequately capitalized” by the time it no longer is “new,”<sup>9</sup> rather than by the end of the term of the plan. 65 FR at 8578; 64 FR 27090, 27099 (May 18, 1999) (chart). The proposed rule revised subsection (b)(2) so that an RBP’s net worth targets ensure the new credit union will become “adequately capitalized” by the time it no longer qualifies as “new.” 67 FR at 38438. Second, under part 702 new credit unions cannot be “complex” or subject to an RBNW requirement because, by definition, they do not meet the \$10 million asset minimum. § 702.103(a)(1). Therefore, the proposed rule deleted the warning to new credit unions that are “complex.” NCUA received no comments on either of these revisions. Accordingly, revised subsection (b)(2) is adopted as proposed.

c. *Publication of RBP.* As explained above, the final rule adds a new

subsection (i) to § 702.206, to clarify that publication of an NWRP is not a prerequisite to enforcing its provisions as authorized in 12 CFR 747.2005. The same is true of an RBP, but this fact was similarly omitted from § 702.306. To the extent an RBP qualifies as a “written agreement or other written statement” under 12 U.S.C. 1786(s)(1)(A), the NCUA Board does not intend to publish RBPs because it has determined that publication would expose the credit union to reputation risk that would be contrary to the public interest. Therefore, the final rule adds new subsection (h) to § 702.306, clarifying that “An RBP need not be published to be enforceable because publication would be contrary to the public interest.”

### 13. Section 702.401—Charges to Regular Reserve

a. *Regular reserve.* Although the proposed rule did not reference subsection (b), which requires credit unions “to establish and maintain a regular reserve account,” four commenters criticized it as obsolete. The NCUA Board prefers to retain the regular reserve at this time primarily for two reasons. First, it facilitates the statutory earnings retention requirement, 12 U.S.C. 1790d(e), by holding the earnings that credit unions classified “adequately capitalized” or lower are required to “set aside.” § 702.201. And second, it continues to function as an early warning signal of safety and soundness problems because, as explained below, regulatory review and approval is required before a credit union can take certain actions—charging losses to, and paying dividends from, the regular reserve—that would cause its net worth to decline below 6 percent.

b. *Minimum net worth to charge losses without approval.* Subsection (c)(1) originally allowed the board of directors of a federally-insured credit union that had depleted the balance of its undivided earnings and other reserves to charge losses to the regular reserve account without regulatory approval so long as the charge did not reduce the credit union’s net worth classification below “well capitalized” (i.e., net worth ratio of 7 percent or greater). § 702.401(c)(1). That net worth category was established as the minimum for charging losses without regulatory approval because the categories below “well capitalized” trigger MSAs. However, the proposed rule lowered the minimum category to “adequately capitalized” (i.e., 6 percent net worth ratio) in order to give credit unions the flexibility to decide for

<sup>9</sup> A credit union remains “new” as long as it is in operation less than 10 years and has assets of \$10 million or less. 12 U.S.C. 1790d(o)(4); § 702.301(b).



themselves whether charging losses is worth triggering the single MSA that applies to that category—the quarterly earnings retention. § 702.201(a); 67 FR at 38439. In addition, the proposed rule expressly reminded credit unions that they must deplete their undivided earnings balance before making any charge to the regular reserve. All seven of the commenters who addressed these proposed revisions supported them. Thus, revised subsection (c)(1) is adopted as proposed.

*c. Dual approval to charge losses.* Subsection (c)(2) originally required the prior approval of the “appropriate State official,” but not the approval of the “appropriate Regional Director,” when a State-chartered credit union seeks to charge losses that would cause it to decline below the minimum category. Omitting the approval of NCUA Regional Directors was inconsistent with the protocol applied elsewhere in part 702 requiring joint State and Federal approval of PCA decisions affecting State-chartered credit unions. *E.g.*, §§ 702.206(a)(1), 702.306(a)(1). To correct this inconsistency, the proposed rule modified § 702.401(c)(2) to require the concurrence of both the “appropriate State official” and “the appropriate Regional Director” to permit a State-chartered credit union to charge losses to the regular reserve. In addition, the proposed rule clarified that written approval may consist of an approved NWRP that allows such charges.

The sole commenter on the revisions proposed for subsection (c)(2) objected that the dual approval requirement would unnecessarily overburden NCUA with the oversight of State officials. On the contrary, the NCUA Board does not consider its approval to be a function of overseeing State officials. Rather, its approval for a State-chartered credit union to charge losses to the regular reserve is integral to PCA because of NCUA’s independent role as insurer of the shares and deposits of federally-insured State-chartered credit unions. Accordingly, revised subsection (c)(2) is adopted as proposed.

#### 15. Section 702.403—Payment of Dividends

*a. Minimum net worth to pay dividends without approval.* Subsection (b)(1) originally allowed the board of directors of a federally-insured credit union that had depleted the balance of undivided earnings to pay dividends out of the regular reserve account without regulatory approval so long as it did not cause the credit union to decline below “well capitalized.” § 702.403(b)(1). As explained above in regard to § 702.401(c)(1), the proposed

rule similarly lowered to “adequately capitalized” the minimum net worth category in which credit unions may pay dividends out of the regular reserve without regulatory approval. This would give credit unions that have depleted undivided earnings the flexibility to decide for themselves whether drawing down the regular reserve to pay dividends is worth triggering the quarterly earnings retention requirement that applies to “adequately capitalized” credit unions. § 702.201(a).

*b. Dual approval to pay dividends.* As with § 702.401(c)(2) discussed above, subsection (b)(2) originally required the prior approval of the “appropriate State official,” but not the approval of the “appropriate Regional Director,” when paying dividends out of the regular reserve would cause a State-chartered credit union to decline below the minimum net worth category. In addition, omitting Regional Director approval may suggest, incorrectly, that a State official’s approval to pay dividends from the regular reserve under § 702.401(b) makes it unnecessary to independently obtain both the State official’s and the Regional Director’s approval under § 702.201(b) for a State-chartered credit union to decrease its earnings retention in order to pay dividends. For this reason and the reason explained in the preceding section, the proposed rule corrected this omission by revising subsection (b)(2) to require the concurrence of both the “appropriate State official” and “the appropriate Regional Director” for a State-chartered credit union to pay dividends out of its regular reserve. In addition, the proposed rule clarified that written approval may consist of an approved NWRP that allows such dividend payments. The two commenters who addressed the revisions proposed for subsections (b)(1) and (b)(2) supported them. Accordingly, they are adopted as proposed.

#### Subpart A of Part 741—Requirements for Insurance

##### 16. Section 741.3—Adequacy of Reserves

Subsection (a)(2) originally allowed State-chartered credit unions to charge losses other than loan losses to the regular reserve in accordance with State law or procedures, but without regulatory approval, provided that the charges did not cause the credit union to decline below “well capitalized.” 12 CFR 741.3(a)(2). The preceding subsection (a)(1) incorporates by reference all of part 702 as a prerequisite for insurability of State-chartered credit

unions. As discussed above, § 702.401(c) already imposes on State-chartered credit unions the same conditions for regulatory approval that subsection (a)(2) prescribes for an insured credit union seeking to charge losses to the regular reserve. Because this makes subsection (a)(2) redundant, the final rule eliminates it from § 741.3.

The final rule’s removal of subsection (a)(2) does not mean that § 702.401(c) preempts “either state law or procedures established by the appropriate State official” that restrict a State-chartered credit union’s ability to charge losses to the regular reserve. On the contrary, such charges would independently remain subject to applicable State laws and procedures. Further, an appropriate State official would retain complete discretion to withhold approval of such charges, under § 702.401(c)(2), on grounds that they would violate State law or procedures.

#### Subpart L of Part 747—Issuance, Review and Enforcement of Orders Imposing PCA

##### 17. Section 747.2005—Enforcement of Orders

The NCUA Board is authorized to “assess a civil money penalty against a credit union which fails to implement a net worth restoration plan \* \* \* or a revised business plan under \* \* \* part 702.” 12 CFR 747.2005(b)(2). As explained above, the NCUA Board has determined that it is not in the public interest to require publication of an NWRP or an RBP in order for either to be enforceable and §§ 702.206 and 702.306 are modified accordingly. The final rule makes a conforming modification to § 747.2005(b)(2) to provide that a civil money penalty may be assessed for failure to implement a plan “regardless whether the plan was published.”

#### Regulatory Procedures

##### Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis describing any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The proposed rule improves and simplifies the existing system of PCA mandated by Congress. 12 U.S.C. 1790d. The NCUA Board has determined and certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions and, therefore, a Regulatory Flexibility Analysis is not required.

*Paperwork Reduction Act*

The reporting requirements in this final rule have been submitted to the Office of Management and Budget. Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB number. Control number 3133-0161 has been issued for part 702 and will be displayed in the table at 12 CFR part 795.

*Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on State and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily adheres to the fundamental federalism principles addressed by the executive order. This final rule will apply to all federally-insured credit unions, including State-chartered credit unions. Accordingly, it may have a direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This impact is an unavoidable consequence of carrying out the statutory mandate to adopt a system of prompt corrective action to apply to all federally-insured credit unions. NCUA staff has consulted with a committee of representative State regulators regarding the impact of the proposed revisions on State-chartered credit unions. Their comments and suggestions are reflected in the proposed rule.

*Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121) provides generally for congressional review of agency rules. A reporting requirement is triggered in

instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedure Act, 5 U.S.C. 551. The Office of Management and Budget has determined that this rule is not a major rule.

**List of Subjects***12 CFR Parts 702 and 741*

Credit unions, Reporting and recordkeeping requirements.

*12 CFR Part 747*

Administrative practices and procedures, Credit unions.

By the National Credit Union Administration Board on November 21, 2002.

**Becky Baker,**

*Secretary of the Board.*

For the reasons set forth above, 12 CFR parts 702, 741 and 747 are amended as follows:

**PART 702—PROMPT CORRECTIVE ACTION**

1. The authority citation for part 702 continues to read as follows:

**Authority:** 12 U.S.C. 1766(a), 1790d.

2. Amend § 702.2 as follows:

a. Redesignate current paragraphs (i) through (k) as new paragraphs (j) through (l) respectively.

b. Add new paragraph (i) to read as set forth below;

c. Revise newly designated paragraph (k)(1)(i) to read as set forth below;

d. Revise newly designated paragraph (k)(1)(iv) to read as set forth below; and

e. Remove from newly designated paragraph (k)(2) the cross-reference to “paragraph (j)(1)” and add in its place a cross-reference to “paragraph (k)(1)”.

**§ 702.2 Definitions.**

\* \* \* \* \*

(i) *Senior executive officer* means a senior executive officer as defined by 12 CFR 701.14(b)(2).

\* \* \* \* \*

(k) *Total assets.* (1) \* \* \*

(i) *Average quarterly balance.* The average of quarter-end balances of the current and three preceding calendar quarters; or

\* \* \*

(iv) *Quarter-end balance.* The quarter-end balance of the calendar quarter as reported on the credit union's Call Report.

\* \* \* \* \*

3. Amend § 702.101 as follows:

a. Add a heading to paragraph (b)(1) to read as set forth below;

b. Revise paragraph (b)(2) to read as set forth below;

c. Add a heading to paragraph (b)(3) to read as set forth below; and

d. Revise the heading of paragraph (c), and paragraph (c)(1), to read as follows:

**§ 702.101 Measures and effective date of net worth classification.**

\* \* \* \* \*

(b) \* \* \*

(1) *Quarter-end effective date.* \* \* \*

(2) *Corrected net worth category.* The date the credit union received subsequent written notice from NCUA or, if State-chartered, from the appropriate State official, of a decline in net worth category due to correction of an error or misstatement in the credit union's most recent Call Report; or

(3) *Reclassification to lower category.*

\* \* \*

(c) *Notice to NCUA by filing Call Report.* (1) Other than by filing a Call Report, a federally-insured credit union need not notify the NCUA Board of a change in its net worth ratio that places the credit union in a lower net worth category;

\* \* \* \* \*

4. Amend § 702.102 by revising Table 1 immediately preceding paragraph (b) to read as follows:

**§ 702.102 Statutory net worth categories.**

\* \* \* \* \*

TABLE 1 — STATUTORY NET WORTH CATEGORY CLASSIFICATION

<i>A credit union's net worth category is . . .</i>	<i>if its net worth ratio is . . .</i>	<i>and subject to the following condition(s) . . .</i>
"Well Capitalized"	7% or above	Meets applicable risk-based net worth (RBNW) requirement
"Adequately Capitalized"	6% to 6.99%	Meets applicable RBNW requirement
"Undercapitalized"	4% to 5.99%	Or fails applicable RBNW requirement
"Significantly Undercapitalized"	2% to 3.99%	Or if "undercapitalized" at <5% net worth ratio and fails to timely submit or materially implement Net Worth Restoration Plan
"Critically Undercapitalized"	Less than 2%	None

\* \* \* \* \*

**§ 702.103 [Amended]**

5. Amend § 702.103 as follows:

- a. Remove the heading from paragraph (a);
- b. Remove paragraph (b); and
- c. Redesignate current paragraph (a) as the sectional introductory text, and paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b), respectively.

**§ 702.104 [Amended]**

6. Amend § 702.104 as follows:

- a. Remove the number "1" from the parenthetical "(Table 1)" in the introductory text and add in its place the number "2"; and
- b. Redesignate Table 1 immediately following paragraph (h) as Table 2.

**§ 702.105 [Amended]**

7. Amend § 702.105 as follows:

- a. Remove the number "2" from the parenthetical "(Table 2)" in the introductory text and add in its place the number "3";
- b. Remove the citation "\$ 702.2(k)" in the introductory text and add in its place the citation "\$ 702.2(m)"; and
- c. Redesignate Table 2 immediately following paragraph (b) as Table 3.

**§ 702.106 [Amended]**

8. Amend § 702.106 as follows:

- a. Remove the number "3" from the parenthetical "(Table 3)" in the

introductory text and add in its place the number "4"; and

- b. Redesignate Table 3 immediately following paragraph (h) as Table 4.

9. Amend § 702.107 as follows:

- a. Remove the number "4" from the parenthetical "(Table 4)" in the introductory text and adding in its place the number "5";
- b. Revise paragraph (a) to read as set forth below;
- c. Add new paragraph (d) immediately after paragraph (c)(6) to read as set forth below;
- d. Redesignate Table 4 immediately following new paragraph (d) as Table 5;
- e. Revise section (a) to Table 5 to read as set forth below; and
- f. Add new section (d) to Table 5 as follows:

**§ 702.107 Alternative components for standard calculation.**

\* \* \* \* \*

(a) *Long-term real estate loans.* The sum of:

- (1) *Non-callable.* Non-callable long-term real estate loans as follows:
  - (i) Eight percent (8%) of the amount of such loans with a remaining maturity of greater than 5 years, but less than or equal to 12 years;
  - (ii) Twelve percent (12%) of the amount of such loans with a remaining maturity of greater than 12 years, but less than or equal to 20 years; and

(iii) Fourteen percent (14%) of the amount of such loans with a remaining maturity greater than 20 years;

(2) *Callable.* Long-term real estate loans callable in 5 years or less as follows:

- (i) Six percent (6%) of the amount of such loans with a documented call provision of 5 years or less and with a remaining maturity of greater than 5 years, but less than or equal to 12 years;
- (ii) Ten percent (10%) of the amount of such loans with a documented call provision of 5 years or less and with a remaining maturity of greater than 12 years, but less than or equal to 20 years; and

(iii) Twelve percent (12%) of the amount of such loans with a documented call provision of 5 years or less and with a remaining maturity of greater than 20 years;

\* \* \* \* \*

(d) *Loans sold with recourse.* The alternative component is the sum of:

- (1) Six percent (6%) of the amount of loans sold with contractual recourse obligations of six percent (6%) or greater; and
- (2) The weighted average recourse percent of the amount of loans sold with contractual recourse obligations of less than six percent (6%), as computed by the credit union.

*(a) LONG-TERM REAL ESTATE LOANS*

<i>Amount of long-term real estate loans by remaining maturity</i>	<i>Alternative risk weighting</i>
<i>Non-callable long-term real estate loans</i>	
<i>Remaining maturity:</i>	
> 5 years to 12 years	.08
> 12 years to 20 years	.12
> 20 years	.14
<i>Long-term real estate loans callable in 5 years or less</i>	
<i>Remaining maturity:</i>	
> 5 years to 12 years	.06
> 12 years to 20 years	.10
> 20 years	.12
The "alternative component" is the sum of each amount of the "long-term real estate loans" risk portfolio by non-"callable" and "callable" characteristic and by remaining maturity (as a percent of quarter-end total assets) times its alternative factor. Substitute for corresponding standard component if smaller.	

\* \* \* \* \*

*(d) LOANS SOLD WITH RECOURSE*

<i>Amount of loans by recourse</i>	<i>Alternative risk weighting</i>
Recourse 6% or greater	.06
Recourse <6%	Weighted average recourse percent
The "alternative component" is the sum of each amount of the "loans sold with recourse" risk portfolio by level of recourse (as a percent of quarter-end total assets) times its alternative factor. The alternative factor for loans sold with recourse of less than 6% is equal to the weighted average recourse percent on such loans. A credit union must compute the weighted average recourse percent for its loans sold with recourse of less than six percent (6%). Substitute for corresponding standard component if smaller.	

10. Amend § 702.108 as follows:

a. Revise the section heading to read as set forth below;

b. Redesignate current paragraphs (a) and (b) as paragraphs (b) and (c), respectively;

c. Add a new paragraph (a) as set forth below; and

d. Revise newly designated paragraph (b) to read as set forth below.

**§ 702.108 Risk mitigation credit.**

(a) *Who may apply.* A credit union may apply for a risk mitigation credit if

on any of the current or three preceding effective dates of classification it either failed an applicable RBNW requirement or met it by less than 100 basis points.

(b) *Application for credit.* Upon application pursuant to guidelines duly adopted by the NCUA Board, the NCUA Board may in its discretion grant a credit to reduce a risk-based net worth requirement under §§ 702.106 and 702.107 upon proof of mitigation of:

(1) Credit risk; or

(2) Interest rate risk as demonstrated by economic value exposure measures.

\* \* \* \* \*

11. Revise the heading of Appendixes A–F to Subpart A of Part 702 to read as follows:

**Appendixes A–H to Subpart A of Part 702**

12. Revise Appendix C to Subpart A to read as follows:

**APPENDIX C – EXAMPLE LONG-TERM REAL ESTATE LOANS**  
**ALTERNATIVE COMPONENT, §702.107(a)**  
**(EXAMPLE CALCULATION IN BOLD)**

<i>Remaining maturity</i>	<b>Dollar balance of Long-term real estate loans by remaining maturity</b>	<b>Percent of total assets by remaining maturity</b>	<i>Alternative risk weighting</i>	<b>Alternative component</b>
<i>Non-callable long-term real estate loans</i>				
> 5 years to 12 years	<b>15,000,000</b>	<b>7.5000 %</b>	.08	<b>0.6000 %</b>
> 12 years to 20 years	<b>2,500,000</b>	<b>1.2500 %</b>	.12	<b>0.1500 %</b>
> 20 years	<b>2,500,000</b>	<b>1.2500 %</b>	.14	<b>0.1750 %</b>
<i>Long-term real estate loans callable in 5 years or less</i>				
> 5 years to 12 years	<b>35,000,000</b>	<b>17.5000 %</b>	.06	<b>1.0500 %</b>
> 12 years to 20 years	<b>5,000,000</b>	<b>2.5000 %</b>	.10	<b>0.2500 %</b>
> 20 years	<b>0</b>	<b>0.000 %</b>	.12	<b>0.000 %</b>
Sum of above equals Alternative Component*				<b>2.23 %</b>

\*Substitute for standard component if lower.

13. Redesignate Appendix F to Subpart A as Appendix H.

14. Add new Appendixes F and G to Subpart A to read as follows:

**APPENDIX F – EXAMPLE LOANS SOLD WITH RECOURSE**  
**ALTERNATIVE COMPONENT, §702.107(d)**  
**(EXAMPLE CALCULATION IN BOLD)**

<i>Percent of contractual recourse obligation</i>	<b>Dollar balance of Loans sold with recourse</b>	<b>Percent of total assets</b>	<b>Alternative risk weighting</b>	<b>Alternative component</b>
Recourse 6 % or greater	<b>5,000,000</b>	<b>2.5000 %</b>	.06	<b>0.1500 %</b>
Recourse < 6 %	<b>35,000,000</b>	<b>17.5000 %</b>	.0500 <sup>a/</sup>	<b>0.8750 %</b>
Sum of above equals Alternative component*				<b>1.03 %</b>

\* Substitute for corresponding standard component if lower.

<sup>a/</sup> The credit union must calculate this alternative risk weighting for loans sold with recourse of less than 6 %. For an example computation, see worksheet in Appendix G below.

**APPENDIX G --WORKSHEET FOR ALTERNATIVE RISK WEIGHTING OF  
LOANS SOLD WITH CONTRACTUAL RECOURSE OBLIGATIONS OF LESS THAN 6 %  
(EXAMPLE CALCULATION IN BOLD)**

<i>Percent of contractual recourse obligation less than 6%</i>	<i>Dollar balance of loans sold with recourse</i>	<i>Dollars of recourse</i>	<i>Alternative risk weighting</i>
5.50 %	5,000,000	275,000	
5.00 %	25,000,000	1,250,000	
4.50 %	5,000,000	225,000	
Sum of above equals	35,000,000	1,750,000	
Dollar of recourse divided by dollar balance equals (expressed as %)			5.00 %

15. Revise newly designated Appendix H to Subpart A to read as follows:

**APPENDIX H -- EXAMPLE RBNW REQUIREMENT USING ALTERNATIVE COMPONENTS  
(EXAMPLE CALCULATION IN BOLD)**

<i>Risk portfolio</i>	<i>Standard component</i>	<i>Alternative component</i>	<i>Lower of standard or alternative component</i>
(a) Long-term real estate loans	2.20 %	2.85 %	2.20 %
(b) MBLs outstanding	0.77 %	0.95 %	0.77 %
(c) Investments	1.51 %	1.37 %	1.37 %
(f) Loans sold with recourse	1.20%	1.03%	1.03%
			<b>Standard component</b>
(d) Low-risk assets			0 %
(e) Average-risk assets			1.83 %
(g) Unused MBL commitments			0.15 %
(h) Allowance			(1.02) %
<b>RBNW requirement*</b> Compare to Net Worth Ratio			<b>6.33 %</b>

\* A credit union is "undercapitalized" if its net worth ratio is less than its applicable RBNW requirement.

16. Revise § 702.201 to read as follows:

**§ 702.201 Prompt corrective action for "adequately capitalized" credit unions.**

(a) *Earnings retention.* Beginning the effective date of classification as "adequately capitalized" or lower, a federally-insured credit union must increase the dollar amount of its net worth quarterly either in the current quarter, or on average over the current and three preceding quarters, by an amount equivalent to at least 1/10th percent (0.1%) of its total assets, and must quarterly transfer that amount (or more by choice) from undivided

earnings to its regular reserve account until it is "well capitalized."

(b) *Decrease in retention.* Upon written application received no later than 14 days before the quarter end, the NCUA Board, on a case-by-case basis, may permit a credit union to increase the dollar amount of its net worth and quarterly transfer an amount that is less than the amount required under paragraph (a) of this section, to the extent the NCUA Board determines that such lesser amount—

(1) Is necessary to avoid a significant redemption of shares; and

(2) Would further the purpose of this part.

(c) *Decrease by FISCO.* The NCUA Board shall consult and seek to work cooperatively with the appropriate State official before permitting a federally-insured State-chartered credit union to decrease its earnings retention under paragraph (b) of this section.

(d) *Periodic review.* A decision under paragraph (b) of this section to permit a credit union to decrease its earnings retention is subject to quarterly review and revocation except when the credit union is operating under an approved net worth restoration plan that provides for decreasing its earnings retention as provided under paragraph (b).

**§ 702.202 [Amended]**

17. Amend § 702.202 as follows:

a. Remove the word “transfer” from the heading of paragraph (a)(1) and add in its place the word “retention.”

b. Remove the words “or interest” from the heading and from the text of paragraph (b)(3).

**§ 702.203 [Amended]**

18. Amend § 702.203 as follows:

a. Remove the word “transfer” from the heading of paragraph (a)(1) and add in its place the word “retention.”

b. Remove the words “or interest” from the heading and from the text of paragraph (b)(3).

19. Amend § 702.204 as follows:

a. Revise the heading of paragraph (a)(1) to read as set forth below;

b. Revise paragraph (b)(3) to read as set forth below;

c. Revise paragraph (c)(1)(iii) to read as set forth below;

d. Revise paragraph (c)(4) to read as set forth below; and

e. Add new paragraph (d) to read as follows:

**§ 702.204 Prompt corrective action for “critically undercapitalized” credit unions.**

(a) \* \* \*

(1) *Earnings retention.* \* \* \*

\* \* \* \* \*

(b) \* \* \*

(3) *Restricting dividends paid.* Restrict the dividend rates that the credit union pays on shares as provided in § 702.202(b)(3).

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) *Other corrective action.* Take other corrective action, in lieu of

conservatorship or liquidation, to better achieve the purpose of this part, provided that the NCUA Board documents why such action in lieu of conservatorship or liquidation would do so, *provided however*, that other corrective action may consist, in whole or in part, of complying with the quarterly timetable of steps and meeting the quarterly net worth targets prescribed in an approved net worth restoration plan.

\* \* \*

(4) *Nondelegation.* The NCUA Board may not delegate its authority under paragraph (c) of this section, unless the credit union has less than \$5,000,000 in total assets. A credit union shall have a right of direct appeal to the NCUA Board of any decision made by delegated authority under this section within ten (10) calendar days of the date of that decision.

(d) *Mandatory liquidation of insolvent federal credit union.* In lieu of paragraph (c) of this section, a “critically undercapitalized” federal credit union that has a net worth ratio of less than zero percent (0%) may be placed into liquidation on grounds of insolvency pursuant to 12 U.S.C. 1787(a)(1)(A).

**§ 702.205 [Amended]**

20. Amend § 702.205 as follows:

a. Remove from paragraph (a)(1) the words “place the credit union into conservatorship or liquidation” and add in their place the words “take the proposed action”; and

b. Remove from paragraph (c) the citation “702.201(b)”.

21. Amend § 702.206 as follows:

a. Revise paragraph (c)(1)(ii) to read as set forth below;

b. Revise paragraph (c)(1)(iii) to read as set forth below; and

c. Add new paragraph (i) to read as follows:

**§ 702.206 Net worth restoration plans.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) The projected amount of earnings to be transferred to the regular reserve account in each quarter of the term of the NWRP as required under § 702.201(a), or as permitted under § 702.201(b);

(iii) How the credit union will comply with the mandatory and any discretionary supervisory actions imposed on it by the NCUA Board under this subpart;

\* \* \* \* \*

(i) *Publication.* An NWRP need not be published to be enforceable because publication would be contrary to the public interest.

22. Amend § 702.302 as follows:

a. Remove the number “2” from the parenthetical “(Table 2)” in the introductory text of paragraph (c) and add in its place the number “6”;

b. Revise the table immediately preceding paragraph (d) to read as set forth below; and

c. Revise paragraph (d) to read as follows:

**§ 702.302 Networth categories for new credit unions.**

\* \* \* \* \*

TABLE 6 — NET WORTH CATEGORY CLASSIFICATION FOR “NEW” CREDIT UNIONS

A “new” credit union’s net worth category is . . .	if its net worth ratio is . . .
“Well Capitalized”	7% or above
“Adequately Capitalized”	6% to 6.99%
“Moderately Capitalized”	3.5% to 5.99%
“Marginally Capitalized”	2% to 3.49%
“Minimally Capitalized”	0% to 1.99%
“Uncapitalized”	Less than 0%

(d) *Reclassification based on supervisory criteria other than net worth.* Subject to § 702.102(b) and (c), the NCUA Board may reclassify a “well capitalized,” “adequately capitalized” or “moderately capitalized” new credit union to the next lower net worth category (each of such actions is hereinafter referred to generally as “reclassification”) in either of the

circumstances prescribed in § 702.102(b).

\* \* \* \* \*

23. Revise § 702.303 to read as follows:

**§ 702.303 Prompt corrective action for “adequately capitalized” new credit unions.**

Beginning on the effective date of classification, an “adequately

capitalized” new credit union must increase the dollar amount of its net worth by the amount reflected in its approved initial or revised business plan in accordance with § 702.304(a)(2), or in the absence of such a plan, in accordance with § 702.201, and quarterly transfer that amount from undivided earnings to its regular reserve account, until it is “well capitalized.”

24. Amend § 702.304 by revising paragraph (a) to read as follows:

**§ 702.304 Prompt corrective action for “moderately capitalized,” “marginally capitalized” and “minimally capitalized” new credit unions.**

(a) *Mandatory supervisory actions by new credit union.* Beginning on the date of classification as “moderately capitalized,” “marginally capitalized” or “minimally capitalized” (including by reclassification under § 702.302(d)), a new credit union must—

(1) *Earnings retention.* Increase the dollar amount of its net worth by the amount reflected in its approved initial or revised business plan and quarterly transfer that amount from undivided earnings to its regular reserve account;

(2) *Submit revised business plan.* Submit a revised business plan within the time provided by § 702.306 if the credit union either:

(i) Has not increased its net worth ratio consistent with its then-present approved business plan;

(ii) Has no then-present approved business plan; or

(iii) Has failed to comply with paragraph (a)(3) of this section; and

(3) *Restrict member business loans.* Not increase the total dollar amount of member business loans (defined as loans outstanding and unused commitments to lend) as of the preceding quarter-end unless it is granted an exception under 12 U.S.C. 1757a(b).

\* \* \* \* \*

25. Amend § 702.305 as follows:

a. Revise paragraph (a) as set forth below;

b. Revise paragraph (c)(2) as set forth below; and

c. Add new paragraphs (c)(3) and (d) as follows:

**§ 702.305 Prompt corrective action for “uncapitalized” credit unions.**

(a) *Mandatory supervisory actions by new credit union.* Beginning on the effective date of classification as “uncapitalized,” a new credit union must—

(1) *Earnings retention.* Increase the dollar amount of its net worth by the amount reflected in the credit union’s approved initial or revised business plan;

(2) *Submit revised business plan.* Submit a revised business plan within the time provided by § 702.306, providing for alternative means of funding the credit union’s earnings deficit, if the credit union either:

(i) Has not increased its net worth ratio consistent with its then-present approved business plan;

(ii) Has no then-present approved business plan; or

(iii) Has failed to comply with paragraph (a)(3) of this section; and

(3) *Restrict member business loans.* Not increase the total dollar amount of member business loans as provided in § 702.304(a)(3).

\* \* \* \* \*

(c) \* \* \*  
(2) *Plan rejected, approved, implemented.* Except as provided in paragraph (c)(3) of this section, must place into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(ii), or conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), an “uncapitalized” new credit union that remains “uncapitalized” one hundred twenty (120) calendar days after the later of:

(i) The effective date of classification as “uncapitalized”; or

(ii) The last day of the calendar month following expiration of the time period provided in the credit union’s initial business plan (approved at the time its charter was granted) to remain “uncapitalized,” regardless whether a revised business plan was rejected, approved or implemented.

(3) *Exception.* The NCUA Board may decline to place a new credit union into liquidation or conservatorship as provided in paragraph (c)(2) of this section if the credit union documents to the NCUA Board why it is viable and has a reasonable prospect of becoming “adequately capitalized.”

(d) *Mandatory liquidation of “uncapitalized” federal credit union.* In lieu of paragraph (c) of this section, an “uncapitalized” federal credit union may be placed into liquidation on grounds of insolvency pursuant to 12 U.S.C. 1787(a)(1)(A).

26. Amend § 702.306 as follows:

a. Revise paragraph (a) to read as set forth below;

b. Revise paragraph (b)(2) to read as set forth below; and

c. Add new paragraph (h) to read as follows:

**§ 702.306 Revised business plans for new credit unions.**

(a) *Schedule for filing.* (1) *Generally.* Except as provided in paragraph (a)(2) of this section, a new credit union classified “moderately capitalized” or lower must file a written revised business plan (RBP) with the appropriate Regional Director and, if State-chartered, with the appropriate State official, within 30 calendar days of either:

(i) The last of the calendar month following the end of the calendar quarter that the credit union’s net worth

ratio has not increased consistent with its then-present approved business plan;

(ii) The effective date of classification as less than “adequately capitalized” if the credit union has no then-present approved business plan; or

(iii) The effective date of classification as less than “adequately capitalized” if the credit union has increased the total amount of member business loans in violation of § 702.304(a)(3).

(2) *Exception.* The NCUA Board may notify the credit union in writing that its RBP is to be filed within a different period or that it is not necessary to file an RBP.

(3) *Failure to timely file plan.* When a new credit union fails to file an RBP as provided under paragraphs (a)(1) or (a)(2) of this section, the NCUA Board shall promptly notify the credit union that it has failed to file an RBP and that it has 15 calendar days from receipt of that notice within which to do so.

(b) \* \* \*

(2) Establish a timetable of quarterly targets for net worth during each year in which the RBP is in effect so that the credit union becomes “adequately capitalized” by the time it no longer qualifies as “new” per § 702.301(b);

\* \* \* \* \*

(h) *Publication.* An RBP need not be published to be enforceable because publication would be contrary to the public interest.

27. Amend § 702.401 by revising paragraph (c) to read as follows:

**§ 702.401 Reserves.**

\* \* \* \* \*

(c) *Charges to regular reserve after depleting undivided earnings.* The board of directors of a federally-insured credit union may authorize losses to be charged to the regular reserve after first depleting the balance of the undivided earnings account and other reserves, provided that the authorization states the amount and provides an explanation of the need for the charge, and either—

(1) The charge will not cause the credit union’s net worth classification to fall below “adequately capitalized” under subparts B or C of this part; or

(2) If the charge will cause the net worth classification to fall below “adequately capitalized,” the appropriate Regional Director and, if State-chartered, the appropriate State official, have given written approval (in an NWRP or otherwise) for the charge.

\* \* \* \* \*

28. Amend § 702.403 by revising paragraph (b) to read as follows:

**§ 702.403 Payment of dividends.**

\* \* \* \* \*



(b) *Payment of dividends if undivided earnings depleted.* The board of directors of a "well capitalized" federally-insured credit union that has depleted the balance of its undivided earnings account may authorize a transfer of funds from the credit union's regular reserve account to undivided earnings to pay dividends, provided that either—

(1) The payment of dividends will not cause the credit union's net worth classification to fall below "adequately capitalized" under subpart B or C of this part; or

(2) If the payment of dividends will cause the net worth classification to fall below "adequately capitalized," the appropriate Regional Director and, if State-chartered, the appropriate State official, have given prior written approval (in an NWRP or otherwise) to pay a dividend.

#### PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766, 1781–1790, and 1790d. Section 741.4 is also authorized by 31 U.S.C. 3717.

##### § 741.3. [Amended]

2. Amend § 741.3 as follows:

- a. Remove from the heading of paragraph (a) the words "Adequacy of".
- b. Remove paragraph (a)(2); and
- c. Redesignate current paragraph (a)(3) as paragraph (a)(2).

#### PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

1. The authority citation for part 747 continues to read as follows:

**Authority:** 12 U.S.C. 1766, 1786, 1784, 1787, 1790d and 4806(a); and 42 U.S.C. 4012a.

2. Amend § 747.2005 of subpart L by revising paragraph (b)(2) to read as follows:

##### § 747.2005 Enforcement of orders.

\* \* \* \* \*

(b) \* \* \*

(2) *Failure to implement plan.*

Pursuant to 12 U.S.C. 1786(k)(2)(A), the NCUA Board may assess a civil money penalty against a credit union which fails to implement a net worth restoration plan under subpart B of part 702 of this chapter or a revised business plan under subpart C of part 702,

regardless whether the plan was published.

\* \* \* \* \*

[FR Doc. 02–30091 Filed 11–27–02; 8:45 am]

BILLING CODE 7535–01–P

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 39

[Docket No. 2002–NE–16–AD; Amendment 39–12952; AD 2002–23–08]

RIN 2120–AA64

##### Airworthiness Directives; Rolls-Royce plc. RB211–535 Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to Rolls-Royce plc. (RR) models RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines, with certain part number (P/N) low pressure (LP) turbine stage 2 discs installed. This action requires establishing new reduced LP turbine stage 2 disc cyclic limits. This action also requires removing from service affected discs that already exceed the new reduced cyclic limit, and removing other affected discs before exceeding their cyclic limits, using a drawdown schedule. The actions specified in this AD are intended to prevent LP turbine stage 2 disc failure, which could result in uncontained engine failure and possible loss of the airplane.

**DATES:** Effective December 30, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of December 30, 2002.

Comments for inclusion in the Rules Docket must be received on or before January 28, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–16–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: [9-ane-adcomment@faa.gov](mailto:9-ane-adcomment@faa.gov). Comments sent

via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rolls-Royce plc, P.O. Box 31 Derby, DE24 8BJ, United Kingdom; telephone 011–44–1332–242424; fax 011–44–1332–249936. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178; fax (781) 238–7199.

**SUPPLEMENTARY INFORMATION:** The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (U.K.), recently notified the FAA that an unsafe condition may exist on RR models RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–B–75 turbofan engines. The CAA advises that a reassessment of the safe cyclic limits of LP turbine stage 2 discs, P/N's UL11508, UL17141, UL18947, UL29029, and UL37352 has been performed by the manufacturer. The cyclic limits of these discs are reduced based on more recent thermal and stress data obtained from operational experience. This condition, if not corrected, could result in uncontained engine failure and possible loss of the airplane.

##### Manufacturer's Service Information

Rolls-Royce plc. has issued mandatory service bulletin (MSB) RB.211–72–D181, Revision 3, dated August 16, 2002, that specifies a drawdown schedule for removing from service affected LP turbine stage 2 discs, using new Time Limits Manual (TLM) cyclic limits. This MSB provides a scheduled reduction, by engine and flight plan, of LP turbine stage 2 disc lives until the full life-cycle reduction on December 31, 2005. This MSB also provides instructions for performing a one-time on-wing eddy current inspection for cracks of affected LP turbine stage 2 discs to allow a disc to remain in service for an additional 3,000 cycles, if it does not exceed the new, lower TLM cyclic limit. The CAA has classified this service bulletin as mandatory and issued AD 006–05–2001 in order to assure the airworthiness of these Rolls-Royce plc. turbofan engines in the U.K.

### Bilateral Airworthiness Agreement

This engine model is manufactured in the U.K. and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

### FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other RR models RB211-535E4-37, RB211-535E4-B-37, and RB211-535E4-B-75 turbofan engines of the same type design, this AD is being issued to prevent LP stage 2 turbine disc failure, which could result in uncontained engine failure and possible loss of the airplane. This AD requires:

- Reducing the LP turbine stage 2 disc life-cyclic limits; and
  - Removing from service affected discs that already exceed the new reduced cyclic limits; and
  - Removing other affected discs before exceeding their cyclic limits, using a drawdown schedule.
- The actions must be done in accordance with the MSB described previously.

### Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All

communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2002-NE-16-AD." The postcard will be date stamped and returned to the commenter.

### Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the

Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2002-23-08 Rolls-Royce plc.:** Amendment 39-12952. Docket No. 2002-NE-16-AD.

**Applicability:** This airworthiness directive (AD) is applicable to Rolls-Royce plc. (RR) models RB211-535E4-37, RB211-535E4-B-37, and RB211-535E4-B-75 turbofan engines, with low pressure (LP) turbine stage 2 discs part numbers (P/N's) UL11508, UL17141, UL18947, UL29029, and UL37352 installed. These engines are installed on, but not limited to, Boeing 757 and Tupolev Tu204 airplanes.

**Note 1:** This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Compliance with this AD is required as indicated, unless already done.

To prevent LP turbine stage 2 disc failure, which could result in an uncontained engine failure and possible loss of the airplane, do the following:

#### Cyclic Limits

(a) Change the RR Time Limits Manual cyclic limits for LP turbine stage 2 discs as specified in the following Table 1:

TABLE 1.—TIME LIMITS MANUAL (TLM) CYCLIC LIMITS

Date of reduced life limit	Life limits for RB211–535E4 engines operating in flight plan A, and RB211–535E4–B engines	Life limits for RB211–535E4 engines operating in flight plan B
(1) December 31, 2001 .....	22,500 cycles-since-new (CSN) .....	19,700 CSN.
(2) December 31, 2002 .....	22,500 cycles-since-new (CSN) .....	19,000 CSN.
(3) December 31, 2003 .....	21,500 CSN .....	18,000 CSN.
(4) December 31, 2004 .....	20,000 CSN .....	16,500 CSN.
(5) December 31, 2005 .....	18,100 CSN .....	14,600 CSN.

**RB211–535E4 Engines Operating to Flight Plan A, and RB211–535E4–B Engines**

(b)(1) For RB211–535E4 engines operating to flight plan A, and RB211–535E4–B engines, remove the LP turbine stage 2 disc from service using the CSN and Action times listed in the following Table 2.

TABLE 2.—DRAWDOWN SCHEDULE FOR RB211–535E4 ENGINES OPERATING TO FLIGHT PLAN A, AND RB211–535E4–B ENGINES

Disc CSN on the effective date of this AD	Action	Replace Disc	
		Without Eddy current inspection	With Eddy current inspection
(i) 20,001 CSN or greater .....	Remove disc from service or perform optional on-wing eddy current disc inspection within 21 days after the effective date of this AD.	Within 21 days after the effective date of this AD.	Within 3,000 cycles-in-service (CIS) after the inspection, but do not exceed the new reduced life limit specified in Table 1 of this AD.
(ii) 18,100 to 20,000 CSN .....	Remove disc from service or perform optional on-wing eddy current disc inspection.	Before accumulating 21,000 CSN or by December 31, 2002, whichever occurs first.	Within 3,000 cycles-in-service (CIS) after the inspection, but do not exceed the new reduced life limit specified in Table 1 of this AD.
(iii) Fewer than 18,100 CSN .....	Remove disc from service or perform optional on-wing eddy current disc inspection.	Before accumulating 20,500 CSN or by December 31, 2004, whichever occurs first.	Within 3,000 cycles-in-service (CIS) after the inspection, but do not exceed the new reduced life limit specified in Table 1 of this AD.

(2) Information regarding disc removal may be found in 3.A. of the Accomplishment Instructions of Mandatory Service Bulletin (MSB) RB.211–72–D181, Revision 3, dated August 16, 2002.

(3) The optional on-wing eddy current disc inspection noted in Table 2 of this AD must be performed in accordance with 3.C.(1) through 3.C.(6) of the Accomplishment Instructions of MSB RB.211–72–D181, Revision 3, dated August 16, 2002.

**RB211–535E4 Engines Operating to Flight Plan B**

(c)(1) For RB211–535E4 engines operating to flight plan B, remove the LP turbine stage 2 disc from service using the CSN and Action times listed in the following Table 3.

TABLE 3.—DRAWDOWN SCHEDULE FOR RB211–535E4 ENGINES OPERATING TO FLIGHT PLAN B

Disc CSN on the effective date of this AD	Action	Replace Disc	
		Without Eddy current inspection	With Eddy current inspection
(i) 16,501 CSN or greater .....	Remove disc from service or perform optional on-wing eddy current disc inspection within 21 days after the effective date of this AD.	Within 21 days after the effective date of this AD.	Within 3,000 cycles-in-service (CIS) after the inspection, but do not exceed the new reduced life limit specified in Table 1 of this AD.
(ii) 14,600 to 16,500 CSN .....	Remove disc from service or perform optional on-wing eddy current disc inspection.	Before accumulating 17,500 CSN or by December 31, 2002, whichever occurs first.	Within 3,000 cycles-in-service (CIS) after the inspection, but do not exceed the new reduced life limit specified in Table 1 of this AD.
(iii) Fewer than 14,600 CSN .....	Remove disc from service or perform optional on-wing eddy current disc inspection.	Before accumulating 17,000 CSN or by December 31, 2004, whichever occurs first.	Within 3,000 cycles-in-service (CIS) after the inspection, but do not exceed the new reduced life limit specified in Table 1 of this AD.

(2) Information regarding disc removal may be found in 3.A. of the Accomplishment Instructions of MSB RB.211-72-D181, Revision 3, dated August 16, 2002.

(3) The optional on-wing eddy current disc inspection must be performed in accordance with 3.C.(1) through 3.C.(6) of the Accomplishment Instructions of MSB RB.211-72-D181, Revision 3, dated August 16, 2002.

#### Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

#### Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

#### Documents That Have Been Incorporated By Reference

(f) The disc removals and inspections must be done in accordance with Roll-Royce MSB RB.211-72-D181, Revision 3, dated August 16, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce plc, PO Box 31, Derby, England; telephone: 011-44-1332-249428; fax 011-44-1332-249223. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in CAA airworthiness directive 006-05-2001.

#### Effective Date

(g) This amendment becomes effective on December 16, 2002.

Issued in Burlington, Massachusetts, on November 8, 2002.

**Francis A. Favara,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 02-29001 Filed 11-27-02; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-SW-34-AD; Amendment 39-12948; AD 2002-23-04]

RIN 2120-AA64

#### Airworthiness Directives; Eurocopter France Model SA-365N, SA-365N1, AS-365N2, and AS 365 N3 Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) for the specified Eurocopter France (ECF) model helicopters that requires inspecting the 9-degree frame (frame) for the correct edge distance of the two attachment holes for the reinforced latch support and for a crack and repairing the frame if necessary. This amendment is prompted by the detection of a fatigue crack on the left-hand (LH) side of the frame during maintenance. The actions specified by this AD are intended to prevent failure of the frame due to a crack at the latch support, loss of a passenger door, damage to the rotor system, and subsequent loss of control of the helicopter.

**DATES:** Effective January 3, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 3, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jim Grigg, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110, telephone (817) 222-5490, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION:** A proposal to amend 14 CFR part 39 to include an AD for ECF Model SA-365N, SA-365N1, AS-365N2, and AS 365 N3 helicopters was published in the **Federal Register** on August 14, 2002 (67 FR 52896). That action proposed to require inspecting the frame for the

correct edge distance of the two attachment holes for the reinforced latch support and for a crack and repairing the frame if necessary.

The Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on ECF Model SA-365N, SA-365N1, AS-365N2, and AS 365 N3 helicopters incorporating MOD 0753B31. The DGAC advises of the discovery of a crack on the left-hand side of the frame.

ECF has issued AS 365 Alert Service Bulletin No. 53.00.42, dated January 31, 2001 (ASB). The ASB specifies measuring the edge distance of the attachment holes for the reinforced latch support of the frame, inspecting for a crack, installing a repair on the frame or stop-drilling the crack, and monitoring the crack for continued growth. The DGAC classified this ASB as mandatory and issued AD No. 2001-060-052(A), dated February 21, 2001, to ensure the continued airworthiness of these helicopters in France.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial changes. These changes will neither increase the economic burden on operators nor increase the scope of the AD.

The FAA estimates that this AD will:

- Affect 45 helicopters of U.S. registry,
  - Require 3 work hours per helicopter to visually inspect all helicopters,
  - Require 8 work hours to repair an estimated 10 helicopters to correct edge distance only, and
  - Require 12 work hours to repair edge distance and cracks for approximately five helicopters.
- The average labor rate is \$60 per work hour. Required parts will cost approximately \$200, assuming a repair is necessary for 15 helicopters. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$19,500.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by Reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

##### 2002-23-04 Eurocopter France:

Amendment 39-12948. Docket No. 2001-SW-34-AD.

**Applicability:** Model SA-365N, SA-365N1, AS-365N2, and AS 365 N3 helicopters, with MOD 0753B31 installed, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent failure of the 9-degree frame (frame) due to a crack at the latch support, loss of a passenger door, damage to the rotor

system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 50 hours time-in-service, inspect each frame by measuring the edge distance at the two 5.2 mm (0.205 inch) diameter attachment holes for the latch support for the passenger door in accordance with the Accomplishment Instructions, paragraph 2.B.1., of Eurocopter France AS 365 Alert Service Bulletin 53.00.42, dated January 31, 2001 (ASB). Inspect the area around the attachment holes for a crack.

(1) If the edge distance of both attachment holes is equal to or more than 8 mm (0.315 inch) and no crack is present, no action is required by this AD.

(2) If the edge distance is less than 8 mm and no crack is present, before further flight, install a reinforcing plate in accordance with the Accomplishment Instructions paragraph 2.B.2. of the ASB. Accomplishing the requirements of paragraph 2.B.2. of the ASB constitutes terminating action for the requirements of this AD.

(3) If there is a crack, before further flight, stop-drill the crack with a 3-millimeter diameter hole and repair the frame in accordance with the Accomplishment Instructions, paragraph 2.B.3., of the ASB. Accomplishing the requirements of paragraph 2.B.3. of the ASB constitutes terminating action for the requirements of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) The inspection and repair shall be done in accordance with the Accomplishment Instructions of Eurocopter France AS 365 Alert Service Bulletin 53.00.42, dated January 31, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005, telephone (972) 641-3460, fax (972) 641-3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(e) This amendment becomes effective on January 3, 2003.

**Note 3:** The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. 2001-060-052(A), dated February 21, 2001.

Issued in Fort Worth, Texas, on November 6, 2002.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 02-29155 Filed 11-27-02; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2000-NM-418-AD; Amendment 39-12964; AD 2002-23-20]

**RIN 2120-AA64**

#### Airworthiness Directives; Dassault Model Falcon 900EX and Mystere Falcon 900 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Model Falcon 900EX and Mystere Falcon 900 series airplanes, that requires repetitive operational tests of the flap asymmetry detection system to verify proper functioning, and repair, if necessary; repetitive replacement of the inboard flap jackscrews with new or reconditioned jackscrews; and repetitive measurement of the screw/nut play of the jackscrews on the inboard and outboard flaps to detect discrepancies, and corrective action, if necessary. This amendment also requires revision of the Airplane Flight Manual. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent jamming of the flap jackscrews during the approach to landing, which could result in inability to move the flaps or an asymmetric flap condition, and consequent reduced controllability of the airplane.

**DATES:** Effective January 3, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 3, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW.,

Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, 98055-4056; telephone (425) 227-1137; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dassault Model Falcon 900EX and Mystere Falcon 900 series airplanes was published in the **Federal Register** on February 15, 2002 (67 FR 7097). That action proposed to continue to require the following actions, which are currently required by AD 99-14-07, amendment 39-11218 (64 FR 36561, July 7, 1999), for certain Model Falcon 900EX and Mystere Falcon 900 series airplanes:

- Repetitive operational tests of the flap asymmetry detection system to verify proper functioning, and repair, if necessary;
- Repetitive replacement of the inboard flap jackscrews with new or reconditioned jackscrews; and
- Repetitive measurement of the screw/nut play of the jackscrews on the inboard and outboard flaps to detect discrepancies, and corrective action, if necessary.

The action also proposed to require revision of the Airplane Flight Manual (AFM).

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

#### Request To Add Part Numbers

One commenter requests adding "Amdt A" to the jackscrew part numbers (P/Ns) that are already specified by the proposed AD (*i.e.*, P/Ns 5318-1, 1-5319-1, and 2-5319-1). We concur with the commenter's request, noting that the designation of "Amdt A" simply indicates a reconditioned jackscrew that has been reidentified. As such, we have determined that this change further clarifies, but does not change, the requirements of this AD. In light of this, we have added P/Ns 5318-1 Amdt A, 1-5319-1 Amdt A, and 2-5319-1 Amdt A, as appropriate, for those P/Ns that have been reconditioned and reidentified. We have revised the applicable P/Ns in paragraphs (b) through (h) of the final rule accordingly.

#### Request To Revise Airplane Maintenance Manual References

The same commenter requests that the final rule reference only Chapter 5-40 of the Airplane Maintenance Manual (AMM) for the operational testing, inspections, and replacement action. The commenter adds that operators are managing the jackscrew life limits and inspections, and have planned the spares and maintenance inspections based on the actions required by AD 99-14-07. The commenter considers that the corrective action can be accomplished only per Chapter 5-40 of the AMM.

We do not concur with the commenter's request that only Chapter 5-40 of the AMM should be cited in the final rule as the appropriate source of service information for the actions required by the proposed AD. In order to accomplish the requirements of the proposed AD, it is necessary to cite all of the service information references included in the proposed AD, which include various AMMs and Temporary Revisions. No change to the final rule is necessary in this regard.

#### Explanation of Changes to the Final Rule

We have made the following changes to the final rule:

- In the Summary section of the final rule, we have clarified the requirements for the repetitive replacement action. Although the Summary section of the proposed AD specifies repetitive replacement of the inboard flap jackscrews "on the inboard," we have deleted the term "on the inboard" in that section of the final rule because the replacement action is also required for the inboard flap jackscrews located in the outboard position. The exact location of the affected jackscrews is specified in paragraphs (b) through (h) of the final rule.

- Although paragraphs (c) and (e) of the proposed AD specify a reconditioned jackscrew having P/N 5318-1, we have revised those paragraphs in the final rule to clarify that the correct P/N of a reconditioned jackscrew is P/N 5318-1 Amdt A.

- Although paragraphs (c)(1), (e)(1), and NOTE 2 of the proposed AD did not include the date of the referenced service bulletin, we have added the date (September 16, 1999) in those paragraphs in the final rule.

- In the proposed AD, paragraph (c)(2) specifies that the jackscrew is located on the inboard flap in the "inboard" position, and paragraph (e)(2) specifies the location of the jackscrew in the "outboard" position. However,

because the jackscrew could be located in either the inboard or outboard position, we have determined that the requirements in those paragraphs are unnecessary and should be deleted. In light of this, we have revised the final rule and renumbered the subparagraphs accordingly.

- In paragraph (d) of the final rule, we have clarified the location of the middle jackscrew by specifying that the jackscrew is located on the inboard flap and in the outboard position. We have also clarified the location of the jackscrew in paragraph (e) of the final rule.

- Paragraph (i) of the proposed AD incorrectly specifies revising the "Limitations" Section of the FAA-approved AFM. However, we have revised the final rule to specify revising the "Abnormal Procedures" Section of the AFM, as cited in French airworthiness directive 1999-082-024(B) R2, dated September 20, 2000.

- We have determined that NOTE 3 in the proposed AD, which specifies a change to the general revisions of the AFM, is no longer necessary. We have revised the final rule and renumbered the notes accordingly.

#### Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

#### Cost Impact

There are approximately 28 airplanes of U.S. registry that will be affected by this AD.

The costs of performing actions required by AD 99-14-07 and retained in this AD for Model Falcon 900EX and Mystere Falcon 900 series airplanes are described below.

The repetitive operational test of the flap asymmetry detection system takes approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the repetitive operational test on U.S. operators is estimated to be \$1,680, or \$60 per airplane, per test cycle.

The measurement of the screw/nut play in the flap jackscrews takes approximately 8 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the measurement on U.S. operators is

estimated to be \$13,400, or \$480 per airplane, per measurement cycle.

The repetitive replacement of jackscrews takes approximately 8 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. New jackscrews cost approximately \$21,200 per airplane. However, the AD permits a one-time reconditioning and re-use of jackscrews, which could reduce the cost of parts by 50%. Based on these figures, the cost impact of replacement of jackscrews on U.S. operators is estimated to be between \$310,240 and \$607,040, or between \$11,080 and \$21,680 per airplane, per replacement cycle.

The revision of the AFM takes approximately 1 work hour per airplane to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the AFM revision on U.S. operators is \$1,680, or \$60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### **§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2002-23-20 Dassault Aviation (Formerly Avions Marcel Dassault-Breguet Aviation (AMD/BA)): Amendment 39-12964. Docket 2000-NM-418-AD.**

**Applicability:** Model Falcon 900EX, serial numbers 04 and up, and Mystere Falcon 900 series airplanes, serial numbers 161 and up; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (j)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent jamming of the flap jackscrews during the approach to landing, which could result in the inability to move the flaps or an asymmetric flap condition, and consequent reduced controllability of the airplane, accomplish the following:

#### **Repetitive Operational Test**

(a) Within 5 flight cycles after August 11, 1999 (the effective date of AD 99-14-07, amendment 39-11218): Perform an operational test of the flap asymmetry detection system to ensure that the system is functioning correctly, in accordance with the procedures specified in Dassault Falcon 900 Airplane Maintenance Manual (AMM) 27-502, dated January 1995; or Dassault Falcon 900EX AMM 27-502, dated September 1996; as applicable. Prior to further flight, repair any discrepancy detected, in accordance with a method approved by the Manager,

International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Direction Generale de l'Aviation Civile (or its delegated agent). Repeat the operational test thereafter at intervals not to exceed 330 flight hours or 7 months, whichever occurs first.

#### **Repetitive Replacement**

(b) Replace each jackscrew having part number (P/N) 5318-1 or 5318-1 Amdt A, which is located on the inboard flap in the inboard position, in accordance with the procedures specified in Dassault Falcon 900 AMM 27-521, dated December 1998; or Dassault Falcon 900EX AMM 27-510, dated September 1996; as applicable. The replacement jackscrew may be new or may have been reconditioned in accordance with paragraph (c) of this AD. Do the initial replacement at the earlier of the times specified in paragraphs (b)(1) and (b)(2) of this AD. Repeat the replacement of a jackscrew having P/N 5318-1 or 5318-1 Amdt A thereafter at intervals not to exceed 750 flight cycles on the jackscrew located on the inboard flap in the inboard position.

(1) Prior to the accumulation of 1,000 total flight cycles on the inboard jackscrew located on the inboard flap in the inboard position, or within 25 flight cycles after August 11, 1999, whichever occurs later.

(2) Prior to the accumulation of 750 total flight cycles on the inboard jackscrew located on the inboard flap in the inboard position, or within 25 flight cycles after the effective date of this AD, whichever occurs later.

(c) A jackscrew having P/N 5318-1 and located on the inboard flap in the inboard position may be replaced by a reconditioned jackscrew having P/N 5318-1 Amdt A, provided that all of the conditions specified in paragraphs (c)(1) and (c)(2) of this AD are met.

(1) The jackscrew has been reconditioned and reidentified as P/N 5318-1 Amdt A, in accordance with Dassault Service Bulletin AVIAC 5318-27-01, dated September 16, 1999.

(2) The jackscrew has been reconditioned only one time.

(d) Prior to the accumulation of 2,200 total flight cycles on the middle jackscrew located on the inboard flap and in the outboard position, or within 25 flight cycles after August 11, 1999, whichever occurs later: Replace each jackscrew having P/N 5318-1 or 5318-1 Amdt A on the inboard flap and in the outboard position, in accordance with the procedures specified in Dassault Falcon 900 AMM 27-521, dated December 1998; or Dassault Falcon 900EX AMM 27-510, dated September 1996; as applicable. The replacement jackscrew may be new or may have been reconditioned in accordance with paragraph (e) of this AD. Repeat the replacement of a jackscrew having P/N 5318-1 or 5318-1 Amdt A thereafter at intervals not to exceed 2,200 flight cycles on the jackscrew located on the inboard flap and in the outboard position.

(e) A jackscrew having P/N 5318-1 and located on the inboard flap and in the outboard position may be replaced by a reconditioned jackscrew having P/N 5318-1 Amdt A, provided that all of the conditions specified in paragraphs (e)(1) and (e)(2) of this AD are met.



(1) The jackscrew has been reconditioned and reidentified as P/N 5318-1 Amdt A, in accordance with Dassault Service Bulletin AVIAC 5318-27-01, dated September 16, 1999.

(2) The jackscrew has been reconditioned only one time.

#### Repetitive Measurements

(f) Prior to the accumulation of 1,000 total flight cycles on the outboard jackscrews located on the outboard flaps, or within 25 flight cycles after August 11, 1999, whichever occurs later: Measure the screw/nut play of the jackscrews having P/N 1-5319-1 or 1-5319-1 Amdt A (on the left wing) and P/N 2-5319-1 or 2-5319-1 Amdt A (on the right wing) on the outboard flaps, in accordance with the procedures specified in Dassault Falcon 900 AMM Temporary Revision (TR) 27-514, dated February 1999; or Dassault Falcon 900EX AMM TR 27-514, dated February 1999; as applicable.

**Note 2:** Jackscrews having P/N 1-5319-1 or 2-5319-1 may be reconditioned in accordance with Dassault Service Bulletin AVIAC 5319-27-01, dated September 16, 1999. These jackscrews may be reconditioned and reused more than one time.

(1) If the initial measurement is equal to or less than 0.014 inch: Repeat the measurement thereafter at intervals not to exceed 330 flight hours or 7 months, whichever occurs first. If any repetitive measurement detects a nut/screw play greater than 0.014 inch, perform the actions required by paragraph (f)(2) of this AD.

(2) If the initial measurement is greater than 0.014 inch: Perform the actions required by paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(i) Prior to further flight, replace the jackscrew with a new or reconditioned jackscrew, in accordance with Dassault Falcon 900 AMM 27-521, dated December 1998; or Dassault Falcon 900EX AMM 27-510, dated September 1996; as applicable.

(ii) Prior to the accumulation of 1,000 total flight cycles on the new or reconditioned jackscrew, perform a follow-on measurement of the screw/nut play, in accordance with the procedures specified in Dassault Falcon 900 AMM TR 27-514, dated February 1999; or Dassault Falcon 900EX AMM TR 27-514, dated February 1999; as applicable.

(iii) If any follow-on measurement required by paragraph (f)(2)(ii) of this AD detects a nut/screw play equal to or less than 0.014 inch, perform the actions required by paragraph (f)(1) of this AD. If any follow-on measurement required by (f)(2)(ii) of this AD detects a nut/screw play greater than 0.014 inch, perform the actions required by paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(g) Prior to the accumulation of 600 total flight cycles on the jackscrew located on the inboard flap in the inboard position, or within 25 flight cycles after the effective date of this AD, whichever occurs later: Measure the screw/nut play of the jackscrew having P/N 5318-1 or 5318-1 Amdt A, which is located on the inboard flap in the inboard position to detect discrepancies, in accordance with the procedures specified in Dassault Falcon 900 AMM TR 27-514, dated February 1999; or Dassault Falcon 900EX AMM TR 27-514, dated February 1999; as

applicable. If the measurement is greater than 0.014 inch, prior to further flight, replace the discrepant jackscrew with a new or reconditioned jackscrew, in accordance with the applicable maintenance manual.

(h) Prior to the accumulation of 1,000 total flight cycles on the jackscrew located on the inboard flap in the outboard position, or within 25 flight cycles after the effective date of this AD, whichever occurs later: Measure the screw/nut play of the jackscrew having P/N 5318-1 or 5318-1 Amdt A, which is located on the inboard flap in the outboard position, in accordance with the procedures specified in Dassault Falcon 900 AMM TR 27-514, dated February 1999; or Dassault Falcon 900EX AMM TR 27-514, dated February 1999; as applicable.

(1) If the initial measurement is equal to or less than 0.014 inch: Repeat the measurements thereafter at intervals not to exceed 330 flight hours or 7 months, whichever occurs first. If any repetitive measurement detects a nut/screw play greater than 0.014 inch, perform the actions required by paragraph (h)(2) of this AD.

(2) If the initial measurement is greater than 0.014 inch: Perform the actions required by paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Prior to further flight, replace the discrepant jackscrew with a new or reconditioned jackscrew, in accordance with Dassault Falcon 900 AMM 27-521, dated December 1998; or Dassault Falcon 900EX AMM 27-510, dated September 1996; as applicable.

(ii) Prior to the accumulation of 1,000 total flight cycles on the new or reconditioned jackscrew perform a follow-on measurement of the screw/nut play, in accordance with the procedures specified in Dassault Falcon 900 AMM TR 27-514, dated February 1999; or Dassault Falcon 900EX AMM TR 27-514, dated February 1999; as applicable.

(iii) If any follow-on measurement required by paragraph (h)(2)(ii) of this AD detects a nut/screw play equal to or less than 0.014 inch, perform the actions required by paragraph (h)(1) of this AD. If any follow-on measurement required by paragraph (h)(2)(ii) of this AD detects a nut/screw play greater than 0.014 inch, perform the actions required by paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

#### Airplane Flight Manual Revision

(i) Within 7 days after the effective date of this AD: Revise the Abnormal Procedures Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement (this may be accomplished by inserting a copy of this AD in the AFM):

"In case of discrepancy between the control position and flap position indicator, do not change flap position control handle. Apply flight manual abnormal procedure 'Flight controls—system jamming or asymmetry' for approach speed and landing distance."

#### Alternative Methods of Compliance

(j)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager,

International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

(2) Alternative methods of compliance, approved previously in accordance with AD 99-14-07, amendment 39-11218, are not considered to be approved as alternative methods of compliance with this AD.

#### Special Flight Permits

(k) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

#### Incorporation by Reference

(l) Unless otherwise specified in this AD, the actions shall be done in accordance with Dassault Falcon 900 Airplane Maintenance Manual Temporary Revision 27-514, dated February 1999; or Dassault Falcon 900EX Airplane Maintenance Manual Temporary Revision 27-514, dated February 1999; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directive 1999-082-024(B) R2, dated September 20, 2000.

#### Effective Date

(m) This amendment becomes effective on January 3, 2003.

Issued in Renton, Washington, on November 19, 2002.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02-30024 Filed 11-27-02; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-CE-36-AD; Amendment 39-12966; AD 2002-24-01]

**RIN 2120-AA64**

**Airworthiness Directives; Britten Norman (Bembridge) Limited BN2A Mk. III Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.



**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to all Britten Norman (Bembridge) Limited (Britten Norman) BN2A Mk. III series airplanes. This AD requires you to repetitively inspect the rear engine-mounting frame for cracks and replace the frame if cracks are found. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to detect and correct cracks in the rear engine-mounting frame, which could lead to engine mount failure. Such failure could result in separation of the engine from the airplane.

**DATES:** This AD becomes effective on January 21, 2003.  
The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 21, 2003.

**ADDRESSES:** You may get the service information referenced in this AD from Britten Norman (Bembridge) Limited Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-CE-36-AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; facsimile: (816) 329-4090.  
**SUPPLEMENTARY INFORMATION:**

**Discussion**  
*What Events Have Caused This AD?*  
The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified FAA that an unsafe condition may exist on all Britten Norman BN2A Mk. III series airplanes. The CAA reports that the manufacturer has reported three occurrences of cracks in the rear engine-mounting frame detected by operators during routine inspections.

*What Is the Potential Impact If FAA Took No Action?*  
These cracks could lead to engine mount failure with consequent separation of the engine from the airplane.

*Has FAA Taken Any Action To This Point?*  
We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Britten Norman BN2A Mk. III series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 17, 2002 (67 FR 58546). The NPRM proposed to require you to repetitively inspect the rear engine-mounting frame

for cracks and replace the frame if cracks are found.  
*Was the Public Invited To Comment?*  
The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

**FAA's Determination**  
*What Is FAA's Final Determination on This Issue?*  
After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

- Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Cost Impact**  
*How Many Airplanes Does This AD Impact?*  
We estimate that this AD affects 7 airplanes in the U.S. registry.  
*What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?*  
We estimate the following costs to accomplish the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
4 workhours × \$60 per hour = \$240. ....	No cost for parts .....	\$240	7 × \$240 = \$1,680.

We estimate the following costs to accomplish any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
30 workhours × \$60 per hour = \$1,800 .....	\$10,000	\$11,800

**Regulatory Impact**  
*Does This AD Impact Various Entities?*  
The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not

have federalism implications under Executive Order 13132.  
*Does This AD Involve a Significant Rule or Regulatory Action?*  
For the reasons discussed above, I certify that this action (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3)

will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. FAA amends § 39.13 by adding a new AD to read as follows:

**2002–24–01 Britten Norman (Bembridge)**

**Limited:** Amendment 39–12966; Docket No. 2002–CE–36–AD.

(a) *What airplanes are affected by this AD?*

This AD affects Models BN2A MK. III, BN2A

MK. III–2, and BN2A MK. III–3 airplanes, all serial numbers, that are certificated in any category.

(b) *Who must comply with this AD?*

Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?*

The actions specified by this AD are intended to detect and correct cracks in the rear engine-mounting frame, which could lead to engine mount failure with consequent separation of the engine from the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the rear engine-mounting frame, part number (P/N) NB51–H–1021, or FAA-approved equivalent part number, for cracks.	Initially upon accumulating 1,000 hours time-in-service (TIS) on the engine mounting frame or within the next 50 hours TIS after January 21, 2003 (the effective date of this AD), whichever occurs later. If no cracks are found on the initial inspection, repetitively inspect every 200 hours TIS.	In accordance with Britten-Norman Service Bulletin No. SB 281, Issue 1, dated May 1, 2002.
(2) If cracks are found during any inspection required in paragraph (d)(1) of this AD, replace the mounting frame with a new frame, P/N NB51–H–1021, or FAA-approved equivalent part number.	Prior to further flight after the inspection in which any crack and/or damage is found. After installing the new frame, inspect as required in paragraph (d)(1) of this AD.	In accordance with Britten-Norman Service Bulletin No. SB 281, Issue 1, dated May 1, 2002.

**Note 1:** When you replace the engine-mounting frame, this AD requires you to inspect per paragraph (d)(1) of this AD upon accumulating 1,000 hours TIS.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

**Note 2:** This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal

Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Britten-Norman Service Bulletin No. SB 281, Issue 1, dated May 1, 2002. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from Britten Norman (Bembridge) Limited Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: +44 (0) 1983 872511; facsimile: +44 (0) 1983 873246. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in British AD 001–05–2002, not dated.

(i) *When does this amendment become effective?* This amendment becomes effective on January 21, 2003.

Issued in Kansas City, Missouri, on November 19, 2002.

**Dorenda D. Baker,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02–30023 Filed 11–27–02; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF COMMERCE****Bureau of Economic Analysis****15 CFR Part 801**

[Docket No. 020725180–2263–02]

RIN 0691–AA43

**International Services Surveys: BE–22, Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons**

**AGENCY:** Bureau of Economic Analysis, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises regulations for the BE–22, Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons. The BE–22 survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act, in years the BE–20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons is not conducted.

This rule revises the regulations to create a new reporting requirement for medical services, receipts only. Additionally, BEA announces that it is revising the BE–22 to create new reporting categories for trade-related services, auxiliary insurance services, and waste treatment and depollution

services; add coverage of transcription services; and amend several other service categories.

**EFFECTIVE DATE:** This final rule will be effective December 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** R. David Belli, Chief, International Investment Division (BE-50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606-9800.

**SUPPLEMENTARY INFORMATION:** In the August 26, 2002, *Federal Register*, volume 67, No. 165, 67 FR 54748-54749, BEA published a notice of proposed rulemaking setting forth revised reporting requirements for the BE-22, Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons. No comments on the proposed rule were received. Thus, this final rule is the same as the proposed rule.

This final rule amends 15 CFR part 801 by revising § 801.9(b)(6)(ii) to set forth revised reporting requirements for the BE-22, Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons. The survey is conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended). Section 3103(a) of the Act provides that the President shall, to the extent he deems necessary and feasible— \* \* \* (1) conduct a regular data collection program to secure current information \* \* \* related to international investment and trade in services \* \* \*. In Section 3 of Executive Order 11961, as amended by Executive Order 12518, the President delegated authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The BE-22 is an annual survey of selected services transactions with unaffiliated foreign persons. The data are needed to compile the U.S. international transactions, national income and product, and input-output accounts; support U.S. trade policy initiatives; assess U.S. competitiveness in international trade in services; and improve the ability of U.S. businesses to identify and evaluate market opportunities.

This document describes changes to the BE-22 survey and sets forth changes to the regulation governing the BE-22. The survey incorporates new reporting categories for trade-related services, auxiliary insurance services, and waste treatment and depollution services;

adds coverage of transcription services; and amends several other services categories. These changes mirror changes introduced in the 2001 BE-20 benchmark survey. Additionally, a new reporting requirement for medical services, receipts only, is created. The final rule revises a list of items set forth in the "covered services" section of the existing rule, to reflect this new category in the survey. These changes to the survey and regulations will close statistical gaps in the coverage of cross-border services transactions and bring the survey into better alignment with international standards for compilation of statistics on trade in services.

#### **Executive Order 12866**

This final rule is not significant for purposes of E.O. 12866.

#### **Executive Order 13132**

This final rule does not contain policies with Federalism implications as that term is defined in E.O. 13132.

#### **Paperwork Reduction Act**

The collection of information required in this final rule has been approved by the Office of Management and Budget under the Paperwork Reduction Act. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number; such a Control Number (0608-0060) has been displayed.

The survey is expected to result in the filing of reports from approximately 1,600 respondents. The respondent reporting burden for this collection of information is estimated to vary from less than four hours to 500 hours, with an overall average burden of 11.5 hours. This includes time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total respondent burden of the survey is estimated at about 18,400 hours (1,600 times 11.5 hours average burden).

Comments regarding the burden estimate or any other aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE-1), U.S. Department of Commerce, Washington, DC 20230, and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0060, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

#### **Regulatory Flexibility Act**

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities. While the survey does not collect data on total sales or other measures of the overall size of businesses that respond to the survey, historically the respondent universe has been comprised mainly of major U.S. corporations. With the exemption level for the survey being \$1 million in covered receipts or payments, few small businesses can be expected to be subject to reporting. Of those smaller businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of transaction, often with a single partner country; therefore, the burden on them should be small.

#### **List of Subjects in 15 CFR Part 806**

Economic statistics, International transactions, Foreign trade, Penalties, Reporting and recordkeeping requirements.

Dated: October 28, 2002.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

For the reasons set forth in the preamble, BEA amends 15 CFR part 801, as follows:

#### **PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS**

1. The authority citation for 15 CFR part 801 continues to read as follows:

**Authority:** 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101-3108, and E.O. 11961 (3 CFR, 1977 Comp., p. 860 as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 801.9(b)(6)(ii) is revised to read as follows:

\* \* \* \* \*

(b) \* \* \*

(6) \* \* \*

(ii) *Covered services.* With the exceptions given in this paragraph, the services covered by this survey are the same as those covered by the BE-20, Benchmark Survey of Selected Services Transactions with Unaffiliated Foreign Persons—2001, as listed in § 801.10(c) of this part. The exceptions are the addition of coverage of medical services, receipts only, and the elimination of coverage of four small types of services-

agricultural services; management of health care facilities; mailing, reproduction, and commercial art; and temporary help supply services.

\* \* \* \* \*

[FR Doc. 02-30136 Filed 11-27-02; 8:45 am]

BILLING CODE 3510-06-P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 253

[Docket No. 2002-4 CARP NCBRA]

#### Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The Copyright Office of the Library of Congress announces a cost of living adjustment of 2.0% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions in the BMI and ASCAP repertoires. The cost of living adjustment is based on the change in the Consumer Price Index from October, 2001, to October, 2002.

**EFFECTIVE DATE:** January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

#### SUPPLEMENTARY INFORMATION:

Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118(c). The most recent proceeding to adjust the terms and rates for the section 118 license began in April of this year. 67 FR 15414 (April 1, 2002).

On October 30, 2002, the Copyright Office announced proposed regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting

entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works, including a provision to adjust § 253.10 which provides for an annual cost of living adjustment of the rates for the public performance of musical compositions in the ASCAP and BMI repertoires by public broadcasting entities licensed to colleges and universities set forth in § 253.5 for the new license period, 2003-2007. 67 FR 66090 (October 30, 2002). Under the proposed rules, the § 253.5 rate for the public performance of musical compositions in the SESAC repertoire will be \$80 for 2003, subject to an annual cost of living adjustment in each subsequent year thereafter during the licensing period.

Section 253.10(b) requires that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. Accordingly, the Copyright Office of the Library of Congress is hereby announcing the change in the Consumer Price Index and performing the proposed annual cost of living adjustment to the rates set out in § 253.5(c) for the public performance of musical compositions in the BMI and ASCAP repertoires in accordance with the October 30 proposed regulations.

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 2001, to the most recent Index published before December 1, 2002, is 2% (2001's figure was 177.7; the figure for 2001 is 181.3, based on 1982-1984=100 as a reference base). Rounding off to the nearest dollar, the royalty rate for the use of musical compositions in the repertoire of ASCAP is \$249 and the use of the musical compositions in the repertoire of BMI is the same, \$249.

If no comments are received regarding the proposed amendments to §§ 253.5 and 253.10 announced in the October 30 **Federal Register** notice and the final rules are published before January 1, 2003, the cost of living adjustments announced in this notice shall become effective on January 1, 2003.

#### List of Subjects in 37 CFR Part 253

Copyright, Radio, Television.

#### Final Regulation

For the reasons set forth in the preamble, part 253 of title 37 of the

Code of Federal Regulations is amended as follows:

#### PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

**Authority:** 17 U.S.C. 118, 801(b)(1) and 803.

2. Section 253.5 is amended by revising paragraphs (c)(1) through (c)(2) as follows:

#### § 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

\* \* \* \* \*

(c) \* \*

(1) For all such compositions in the repertoire of ASCAP, \$249 annually.

(2) For all such compositions in the repertoire of BMI, \$249 annually.

\* \* \* \* \*

Dated: November 21, 2002.

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. 02-30145 Filed 11-27-02; 8:45 am]

BILLING CODE 1410-33-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2002-0314; FRL-7281-2]

#### Pyriproxyfen; Pesticide Tolerance for Emergency Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of pyriproxyfen in or on strawberry. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on strawberry. This regulation establishes a maximum permissible level for residues of pyriproxyfen in or on this food commodity. The tolerance will expire and is revoked on December 31, 2004.

**DATES:** This regulation is effective November 29, 2002. Objections and requests for hearings, identified by docket ID number OPP-2002-0314, must be received on or before January 28, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted

electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9356; e-mail address: [conrath.andrea@epa.gov](mailto:conrath.andrea@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop producers (NAICS 111)
- Animal producers (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 28522)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

###### *B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2002-0314. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select “search,” then key in the appropriate docket ID number.

##### **II. Background and Statutory Findings**

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the insecticide pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy) ethoxypyridine], in or on strawberry at 0.30 part per million (ppm). This tolerance will expire and is revoked on December 31, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18-related tolerances to set binding precedents for the application of section 408 of FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the

legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that “emergency conditions exist which require such exemption.” This provision was not amended by the Food Quality Protection Act (FQPA) of 1996. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

##### **III. Emergency Exemption for Pyriproxyfen on Strawberry and FFDCA Tolerances**

The California Department of Pesticide Regulation has indicated that populations of the silverleaf whitefly in the State are at levels which could result in significant damage to the State’s strawberry crop. This pest is relatively newly-introduced into the U.S., and the registered alternatives have not provided adequate control thus far. Without adequate control, this pest was expected to result in significant crop damage and yield losses for strawberry growers, leading to significant economic losses. EPA has authorized under FIFRA section 18 the use of pyriproxyfen on strawberry for control of the silverleaf whitefly in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of pyriproxyfen in or on strawberry. In doing so, EPA considered the safety standard in section 408(b)(2) of FFDCA, and EPA decided that the necessary tolerance under section 408(l)(6) of FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in

order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of FFDCA. Although this tolerance will expire and is revoked on December 31, 2004, under section 408(l)(5) of FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberry after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether pyriproxyfen meets EPA's registration requirements for use on strawberry or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of pyriproxyfen by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for pyriproxyfen, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

#### IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see the final

rule on Bifenthrin Pesticide Tolerances November 26, 1997 (62 FR 62961) (FRL-5754-7).

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of pyriproxyfen and to make a determination on aggregate exposure, consistent with section 408(b)(2) of FFDCA, for a time-limited tolerance for residues of pyriproxyfen in or on strawberry at 0.30 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

##### A. Toxicological Endpoints

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pyriproxyfen, a summary of the toxicological dose and endpoints for pyriproxyfen for use in this human risk assessment, and the most recent estimated aggregate risks resulting from registered uses are discussed in the **Federal Register** for August 28, 2002 (67 FR 55150) (FRL-7195-7) Final Rule establishing tolerances for residues of pyriproxyfen in/on acerola, bushberry subgroup, feijoa, guava, jaboticaba, juneberry, lingonberry, longan, lychee, passionfruit, pulasan, rambutan, salal, Spanish lime, starfruit, stone fruit group, and wax jambu.

Refer to the August 28, 2002 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment, including this use on strawberry.

##### B. Exposure Assessment

EPA assessed risk scenarios for pyriproxyfen under chronic and intermediate and short-term (residential) scenarios. Because there were no acute endpoints identified, an acute risk assessment was not conducted. Nor was a cancer aggregate risk assessment conducted, because pyriproxyfen is classified as "not likely" to be a human carcinogen.

The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the Department of Agricultural (USDA) 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity.

The following assumptions were made for the chronic exposure assessments: Published and proposed tolerance level residues and 100% crop treated were assumed for all commodities, and the default processing factors were applied.

Using these exposure assumptions, EPA concluded that pyriproxyfen chronic exposures from food consumption are below levels of concern (< 100% of the chronic Population Adjusted Dose (cPAD)) for the general U.S. population and all population subgroups. The cPAD utilized for the most highly exposed subgroup (children 1–6 years old) is 2.7%. Chronic risk from dietary exposure for infants (< 1 year old) and children (7–12 years old) utilizes 2.0% and 1.6% of the cPAD, respectively. Chronic dietary risk for the general U.S. population is 1.0% of the cPAD, and the estimated chronic risk for all other population subgroups is below this level. In addition, despite the potential for chronic dietary exposure to pyriproxyfen in drinking water, after calculating drinking water levels of concern (DWLOCs) and comparing them to conservative model EECs of pyriproxyfen in surface and ground waters, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following table:

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR CHRONIC EXPOSURE TO PYRIPROXYFEN

Population Subgroup	cPAD (mg/kg)	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
General U.S. population	0.35	1.0	0.4	0.006	12,000
Children (1–6 years old)	0.35	2.7	0.4	0.006	3,100
Children (7–12 years old)	0.35	1.6	0.4	0.006	3,200

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR CHRONIC EXPOSURE TO PYRIPROXYFEN—Continued

Population Subgroup	cPAD (mg/kg)	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Infants (< 1 year old)	0.35	2.0	0.4	0.006	3,200

Short-term and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, flea and tick control on pets).

Pyriproxyfen is currently registered for various residential non-dietary sites, and is used for flea and tick control (home environment and pet treatments) as well as products for ant and roach control. Pet owners could potentially be exposed to pyriproxyfen during applications to pets; however, since no

short-term dermal or inhalation endpoints were identified, only a post-application residential assessment was conducted. Both adults and toddlers could potentially be exposed to pyriproxyfen residues on treated carpets, floors, upholstery, and pets, but it is anticipated that toddlers will have higher exposures than adults due to behavior patterns. Therefore, the residential risk assessment addressed post-application exposures of toddlers, which is considered to be a worst-case scenario. Short-term, intermediate-term, and long-term toddler hand-to-mouth exposures (consisting of petting treated animals and touching treated carpets/flooring) were assessed; long-term dermal exposures were also assessed for

products with anticipated efficacy of more than 6 months (carpet powders and pet collars). Toddler exposures to combined treatment scenarios, where a pet owner treats the home environment and the pet in the same period were also assessed.

The Agency has determined that it is appropriate to aggregate chronic food and water and short-term and intermediate-term exposures for pyriproxyfen. Using the exposure assumptions described above for short-term and intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs as shown in the following table:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM AND INTERMEDIATE-TERM EXPOSURE TO PYRIPROXYFEN

Population Subgroup	Target MOE	Short-Term Aggregate MOE (Food + Residential)	Intermediate-Term Aggregate MOE (Food + Residential)	Surface, Ground Water EECs (ppb)	Short-Term DWLOCs (ppb)	Intermediate-Term DWLOCs (ppb)
U.S. population	100	29,000	10,000	0.4, 0.006	35,000	12,000
Infants (< 1 year old)	100	1,800	650	0.4, 0.006	9,400	3,000
Children (1–6 years)	100	1,700	620	0.4, 0.006	9,400	2,900
Children (7–12 years)	100	1,900	670	0.4, 0.006	9,500	3,000

These aggregate MOEs do not exceed the Agency’s level of concern for aggregate exposure to food and residential uses. For surface and ground water, the EECs for pyriproxyfen are significantly less than the DWLOCs as a contribution to intermediate-term and short-term aggregate exposure. Therefore, EPA concludes with reasonable certainty that residues of pyriproxyfen in drinking water do not contribute significantly to the intermediate-term or short-term aggregate human health risk at the present time.

Pyriproxyfen is classified as not likely to be a human carcinogen, so the Agency did not conduct a cancer aggregate risk assessment.

Based upon these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and

children, from aggregate exposure to pyriproxyfen residues.

#### V. Other Considerations

##### A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas liquid chromatography with nitrogen-phosphorus (GLC/NP) detector) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: [residuemethods@epa.gov](mailto:residuemethods@epa.gov).

##### B. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits for residues of pyriproxyfen in/on strawberry, so international harmonization is not an issue.

##### C. Conditions

A maximum of two applications may be made, at a maximum rate of 30 grams active ingredient (a.i.), using ground application equipment only. No more than 60 grams a.i. may be applied per acre per season.

#### VI. Conclusion

Therefore, the tolerance is established for residues of pyriproxyfen, 2-[1-methyl-2-(4-phenoxyphenoxy)ethoxypyridine], in or on strawberry at 0.30 ppm.

#### VII. Objections and Hearing Requests

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178.



Although the procedures in those regulations require some modification to reflect the amendments made to FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) of FFDCA provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) of the FFDCA, as was provided in the old sections 408 and 409 of the FFDCA. However, the period for filing objections is now 60 days, rather than 30 days.

#### *A. What Do I Need to Do to File an Objection or Request a Hearing?*

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number OPP-2002-0314 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 28, 2003.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900C), Environmental Protection Agency 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. You may also deliver your request to the Office of the Hearing Clerk in Rm. 104, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (703) 603-0061.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you

must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov), or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.1. Mail your copies, identified by the docket ID number OPP-2002-0314, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.1. You may also send an electronic copy of your request via e-mail to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

#### *B. When Will the Agency Grant a Request for a Hearing?*

A request for a hearing will be granted if the Administrator determines that the

material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

#### **VIII. Regulatory Assessment Requirements**

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect



on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop

an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

#### IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 8, 2002.

**Debra Edwards,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.510 is amended by alphabetically adding “strawberry” to the table in paragraph (b) to read as follows:

#### § 180.510 Pyriproxyfen; tolerances for residues.

\* \* \* \* \*

(b) \* \* \*

Commodity	Parts per million	Expiration/revocation date
Strawberry .....	* * * * *	0.30 12/31/04

\* \* \* \* \*

[FR Doc. 02–30260 Filed 11–27–02; 8:45 am]

BILLING CODE 6560–50–S

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 1, 2, 27, 87, 90 and 95

[WT Docket No. 02–08; FCC 02–152]

#### License Services in the 216–220 MHz, 1390–1395 MHz, 1427–1429 MHz, 1429–1432 MHz, 1432–1435 MHz, 1670–1675 MHz, and 2385–2390 MHz Government Transfer Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Communications Commission published a document in the Federal Register on June 20, 2002,

(67 FR 41847), revising the Quiet Zone procedures for operation near GOES stations. The publication incorrectly indicated that the GOES procedures were contained in § 1.924(f) and, therefore, inadvertently removed the Quiet Zone procedures for operation in the 420–450 MHz band. This document corrects the Quiet Zone procedures by re-inserting the procedures for operation in 420–450 MHz band into § 1.924(f) and lists the updated procedures for operation near GOES stations into § 1.924(g).

**DATES:** Effective November 29, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Keith Fickner regarding legal matters, and/or Brian Marengo or Tim Maguire regarding engineering matters via phone at (202) 418–0680, via TTY (202) 418–7233, or via e-mail at [kfickner@fcc.gov](mailto:kfickner@fcc.gov), [bmarengo@fcc.gov](mailto:bmarengo@fcc.gov) or [tmaguire@fcc.gov](mailto:tmaguire@fcc.gov), respectively, Wireless Telecommunications Bureau, Federal

Communications Commission, Washington, DC 20554.

**SUPPLEMENTARY INFORMATION:** In the FR Doc. 02–15373 published in the **Federal Register** on June 20, 2002, (67 FR 41847) the Commission updated the Quiet Zone procedures for operation near GOES stations. The document incorrectly indicated that the GOES procedures were contained in § 1.924(f). The GOES procedures are supposed to be listed in § 1.924(g). The Quiet Zone procedures listed in § 1.924(f) are intended for operation in the 420–450 MHz band. Therefore, the **Federal Register** publication inadvertently deleted the Quiet Zone procedures for operation in the 420–450 MHz band. The Quiet Zone procedures for operations near GOES stations are intended to apply only to operation in the 1670–1675 MHz band.

Therefore, the Quiet Zone procedures for operation in the 420–450 MHz band should be re-inserted into § 1.924(f) and

the updated GOES procedures should be listed in § 1.924(g).

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

## Rules Changes

For the reasons discussed in the preamble, the Federal Communications Commission corrects 47 CFR part 1 as follows:

### PART 1—PRACTICE AND PROCEDURES

1. The authority citation for part 90 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. Section 1.924 is amended by correctly designating paragraph (f) as paragraph (g) and by reinstating the former text of paragraph (f) to read as follows:

#### § 1.924 Quiet zones.

\* \* \* \* \*

(f) *420–450 MHz band.* (1) In the band 420–450 MHz, applicants should not expect to be accommodated if their area of service is within 160 kilometers (100 miles) of the following locations:

- (i) 45°45'00.2" N., 70°31'58.3" W.,
- (ii) 64°17'00.0" N., 149°10'00.0" W.,

**Note to:** Paragraph(f)(ii) is referenced to NAD27.

(iii) 48°43'00.0" N., 97°54'01.4" W.;

(2) Within 200 kilometers (124 miles) of the following locations:

- (i) 32°38'00.5" N., 83°34'59.7" W.,
- (ii) 31°25'00.6" N., 100°24'01.3" W.;

(3) Within 240 kilometers (150 miles) of the following location:

- (i) 39°07'59.6" N., 121°26'03.9" W.;
- (ii) [Reserved]

(4) Within 320 kilometers (200 miles) of the following locations:

- (i) 28°21'01.0" N., 80°42'59.2" W.,
- (ii) 30°30'00.7" N., 86°29'59.8" W.,
- (iii) 43°08'59.6" N., 119°11'03.8" W.;

(5) Or in the following locations:

- (i) The state of Arizona,
- (ii) The state of Florida,
- (iii) Portions of California and Nevada south of 37°10' N.,

(iv) And portions of Texas and New Mexico bounded by 31°45' N., 34°30' N., 104°00' W., and 107°30' W

\* \* \* \* \*

[FR Doc. 02–29810 Filed 11–27–02; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No.011005245–2012–02; I.D. 112202A]

#### Fisheries of the Northeastern United States; Atlantic Herring Fishery; Total Allowable Catch Harvested for Management Area 1A

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure of directed fishery for Management Area 1A.

**SUMMARY:** NMFS announces that 95 percent of the Atlantic herring total allowable catch (TAC) allocated to Management Area 1A (Area 1A) for fishing year 2002 has been harvested. Therefore, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring harvested from Area 1A per trip or calendar day until January 1, 2003, when the 2003 TAC becomes available. Regulations governing the Atlantic herring fishery require publication of this notification to advise vessel and dealer permit holders that 95 percent of the Atlantic herring TAC allocated to Area 1A has been harvested, and no TAC is available for the directed fishery for Atlantic herring harvested from Area 1A.

**DATES:** Effective 0001 hrs local time, December 1, 2002, through 2400 hrs local time, December 31, 2002.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fisheries Management Specialist, at (978) 281–9221.

**SUPPLEMENTARY INFORMATION:** Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, and management area TACs. The 2002 TAC allocated to Area 1A for the fishing year is 60,000 mt (132,277,357 lb). The TAC is further allocated into a period 1 TAC of 6,000 mt (13,227,735 lb), a period 2 TAC of 54,000 mt (119,049,621 lb), with period 1 spanning January 1 - May 31; and period 2, June 1 - December 31. (67 FR 3442, January 24, 2002)

The regulations at 50 CFR 648.202 require the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Atlantic herring fishery in each of the four management areas

designated in the Fishery Management Plan for the Atlantic Herring Fishery and, based upon dealer reports, state data, and other available information, to determine when the harvest of Atlantic herring is projected to reach 95 percent of the TAC allocated. When such a determination is made, NMFS is required to publish notification in the **Federal Register** notifying vessel and dealer permit holders that, effective upon a specific date, vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day from the specified management area for the remainder of the fishing year.

The Regional Administrator determined that 95 percent of the Period 1 TAC allocated to Area 1A was harvested on April 26, 2002, and the directed fishery was closed for the remainder of the quota period 1 (67 FR 20056, April 24, 2002).

The Regional Administrator has determined, based upon dealer reports and other available information, that 95 percent of the total Atlantic herring TAC allocated to Area 1A for fishing year 2002 has been harvested. Therefore, effective 0001 hrs local time, December 1, 2002, federally permitted vessels may not fish for, catch, possess, transfer or land more than 2,000 lb (907.2 kg) of Atlantic herring harvested from Area 1A per trip or calendar day until the Period 1 TAC becomes available at 0001 hrs, January 1, 2003. Vessels may transit an area that is limited to the 2,000–lb (907.2–kg) limit with more than 2,000 lb (907.2 kg) of herring on board, provided all fishing gear is stowed and not available for immediate use, as required by § 648.23(b). A vessel may land herring in an area that is limited to the 2,000–lb (907.2–kg) limit specified in § 648.202(a) with more than 2,000 lb (907.2 kg) of herring on board, provided such herring were caught in an area or areas not subject to the 2,000–lb (907.2–kg) limit and provided all fishing gear is stowed and not available for immediate use as required by § 648.23(b). Effective December 1, 2002, federally permitted dealers are also advised that they may not purchase Atlantic herring from federally permitted Atlantic herring vessels that harvest more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1A through January 1, 2003, 0001 hrs local time.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: November 22, 2002.  
**Richard W. Surdi,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 02-30228 Filed 11-25-02; 4:34 pm]  
**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**  
**[I.D. 111302E]**

**Fisheries of the Exclusive Economic Zone Off Alaska; Correction**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.  
**ACTION:** Technical correction.

**SUMMARY:** NMFS is correcting typographic errors in Federal regulations. The intended effect of this action is regulatory accuracy, and it will have no effect on any person fishing in the EEZ for any species.  
**DATES:** Effective November 29, 2002.  
**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7008.  
**SUPPLEMENTARY INFORMATION:** This action corrects typographical errors in regulations codified at 50 CFR part 679. In § 679.2, the definition heading for “KIFQ actual ex-vessel value” is corrected by removing “KIFQ” and adding in its place “IFQ”. Paragraph 679.7(f)(8)(ii)(B)(2) is corrected by

removing “Pacific code” and adding in its place “Pacific cod”. This action will not have any substantive regulatory effect.  
**Classification**  
This action corrects typographic errors, a non-discretionary technical change with no substantive effects. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B), as such procedure would be unnecessary. Because prior notice and opportunity for comment is not required for this action by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* are not applicable.  
**List of Subjects in 50 CFR Part 679**  
Alaska, Fisheries, Recordkeeping and reporting requirements.  
Dated: November 21, 2002.  
**John Oliver.**  
*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*  
For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:  
**PART 679--FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**  
1. The authority citation for part 679 continues to read as follows:  
**Authority:** Authority: 16 U.S.C 773 *et seq.*; 1801 *et seq.* 3631 *et seq.*; Title II Division C,

Pub. L. 105277; Sec. 3027, Pub. L. 10631; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106554. *et seq.*  
2. In § 679.2, the heading for the definition of “KIFQ actual ex-vessel value” is revised to read as follows, and the definition is placed in an alphabetical order:  
**§ 679.2 Definitions.**  
\* \* \* \* \*  
*IFQ actual ex-vessel value.* \* \* \*  
\* \* \* \* \*  
3. In § 679.7, paragraph (f)(8)(ii)(B)(2) is revised to read as follows:  
**§ 679.7 Prohibitions.**  
\* \* \* \* \*  
(f) \* \* \*  
(8) \* \* \*  
(ii)  
(B) \* \* \*  

If the vessel operator ...	Then ...
* * * * * (2) does not have an LLP groundfish license with a Pacific cod endorsement that meets the requirements of § 679.4(k)(9).	Pacific cod must not be discarded up to the retainable amount specified in Table 11 of this part unless Pacific cod are required to be discarded under subpart B of this part, or Pacific cod are not authorized to be retained under subpart A of this part.

  
[FR Doc. 02-30132 Filed 11-27-02; 8:45 am]  
**BILLING CODE 3510-22-S**

# Proposed Rules

Federal Register

Vol. 67, No. 230

Friday, November 29, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

#### Organization and Operations of Federal Credit Unions

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Reopening of comment period.

**SUMMARY:** On September 25, 2002, NCUA published for public comment a proposed rule amending § 701.19. 67 FR 60184 (September 25, 2002). The revisions to § 701.19 clarify the scope of the rule and the investments FCUs may use to fund employee benefits. The comment period for this proposed rule was due to have expired on November 25, 2002. Two interested parties have requested an extension of the comment period to respond. In view of this request and NCUA's desire to foster public participation in the rulemaking process, the NCUA Board is reopening the comment period to December 26, 2002.

**DATES:** Comments must be received on or before December 26, 2002.

**ADDRESSES:** Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. You are encouraged to fax comments to (703) 518-6319 or email comments to [regcomments@ncua.gov](mailto:regcomments@ncua.gov) instead of mailing or hand-delivering them. Whatever method you choose, *please send comments by one method only.*

**FOR FURTHER INFORMATION CONTACT:** Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518-6540.

By the National Credit Union Administration Board on November 21, 2002.

**Becky Baker,**  
Secretary of the Board.

[FR Doc. 02-30162 Filed 11-27-02; 8:45 am]

BILLING CODE 7535-01-P

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 702

#### Prompt Corrective Action; Net Worth Restoration Plans

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to Congressional mandate, the National Credit Union Administration (NCUA) established a system of prompt corrective action consisting of statutory minimum capital standards for federally-insured credit unions and corresponding remedies to restore net worth. Among the remedies mandated by statute is the requirement to submit a net worth restoration plan for approval by NCUA. NCUA requests public comment on a proposal to allow approval of an abbreviated net worth restoration plan for qualifying credit unions whose net worth ratio has declined marginally below 6 percent because growth in assets outpaces growth in net worth.

**DATES:** Comments must be received on or before January 28, 2003.

**ADDRESSES:** Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428. *You are encouraged to fax comments to (703) 518-6319 or e-mail comments to [regcomments@ncua.gov](mailto:regcomments@ncua.gov) instead of hand-delivering them. Whichever method you choose, please send comments by one method only.*

**FOR FURTHER INFORMATION CONTACT:** *Legal:* Steven W. Wideman, Trial Attorney, Office of General Counsel, at the above address or by telephone: 703/518-6557. *Technical:* Jon Flagg, Loss/Risk Analysis Officer, Office of Examination and Insurance, at the above address or by telephone: 703/518-6378.

**SUPPLEMENTARY INFORMATION:** Except where noted, citations to part 702 in this rule refer to 12 CFR 702 *et seq.*, as amended by the NCUA Board in a final rule found elsewhere in this volume of the **Federal Register**. Citations to part 702 are abbreviated to the section number only.

## A. Background

### 1. Development of Part 702

In 1998, the Credit Union Membership Access Act ("CUMAA"), Pub. L. No. 105-219, 112 Stat. 913 (1998), amended the Federal Credit Union Act to require NCUA to adopt by regulation a system of "prompt corrective action" ("PCA") consisting of minimum capital standards and corresponding remedies to improve the net worth of federally-insured "natural person" credit unions. 12 U.S.C. 1790d *et seq.*

In 2000, the NCUA Board adopted part 702 and subpart L of part 747, establishing a comprehensive system of PCA. 12 CFR 702 *et seq.* Part 702 combines mandatory supervisory actions prescribed by statute with discretionary supervisory actions developed by NCUA, all indexed to five statutory net worth categories. 65 FR 8560 (Feb. 18, 2000). A risk-based net worth ("RBNW") component was subsequently integrated into part 702. 65 FR 44950 (July 20, 2000). Subpart L of part 747 established an independent review process allowing affected credit unions and officials to challenge PCA decisions. 12 CFR 747.2001 *et seq.* (2000). Part 702 and subpart L of part 747 took effect August 7, 2000, and first applied to activity in the fourth quarter of 2000. The RBNW component took effect January 1, 2001, and first applied (for quarterly Call Report filers) to activity in the first quarter of 2001.

Since it was first adopted, part 702 has been amended three times. First, to incorporate limited technical corrections. 65 FR 55439 (Sept. 14, 2000). Second, to delete sections made obsolete by adoption of a uniform quarterly schedule for filing Call Reports. 67 FR 12459 (March 19, 2002). And finally, in a final rule adopted today, to incorporate a series of revisions and adjustments designed to improve and simplify the implementation of PCA. That final rule appears elsewhere in this volume of the **Federal Register** and is effective January 1, 2003.

### 2. Request for Comments

The concept of an abbreviated net worth restoration plan ("NWRP") was first raised in the proposed rule that preceded the final rule that the NCUA Board has adopted today. 67 FR 38431 (June 4, 2002). While no specific

proposal was introduced, the NCUA Board invited public comment on the concept of what was then referred to as “safe harbor” approval of an NWRP to benefit credit unions that fall marginally short of “adequately capitalized” primarily because asset growth outstrips income growth. *Id.* at 38437. The proposed rule described the concept in broad terms as “notice of certain criteria established by regulation that, when met, will assure approval.”

NCUA received sixteen public comments on the “safe harbor” concept. Fourteen commenters generally supported the concept, suggesting various criteria for eligibility and for plan contents. Regarding eligibility, six commenters suggested a minimum net worth ratio for a “safe harbor” NWRP: one suggested “just under” 6 percent; two suggested 5.5 percent; two suggested 5 percent; one suggested 3 percent. In contrast, one commenter insisted there should be no minimum net worth ratio required for eligibility. Two commenters urged that a credit union should be eligible only if asset growth was not induced by above market rates on shares and deposits, or only in extraordinary circumstances. A banking industry trade association believed the concept was at odds with CUMAA. Finally, two commenters suggested that a “safe harbor” NWRP should not be subject to automatic revocation if its goals are not met.

Regarding the contents of a “safe harbor” NWRP, a commenter suggested requiring net worth to improve within two quarters. Another suggested setting a required return on average assets that would restore net worth within 3 years. One commenter advocated an earnings retention requirement of 80 to 180 basis points per year, depending on how far below six percent the credit union’s net worth ratio had fallen.

Another urged that a plan should be accepted if a credit union’s earnings are positive, but its net worth ratio remained flat in some quarters due to continued asset growth not induced by above market rates.

Some commenters seemed to equate the concept of “safe harbor” approval with the notion of automatic approval of any form of NWRP that the NCUA Board might adopt as an alternative to the standard NWRP that part 702 now requires. However, as the prior proposed rule confirmed, *id.* at 38437, CUMAA requires NCUA to ensure, as a prerequisite for approval, that an NWRP of any kind “is based on realistic assumptions and is likely to succeed in restoring \* \* \* net worth.” 12 U.S.C. 1790d(f)(5). “Safe harbor” approval was a misnomer to the extent that it implied,

incorrectly, that NCUA would abdicate this statutory responsibility. Through this notice, the NCUA Board invites public comment on a specific proposal—styled a “1st tier net worth restoration plan”—to permit qualifying “undercapitalized” credit unions to submit for approval an abbreviated NWRP.

To facilitate consideration of the public’s views, we ask commenters to address only the proposal for a “1st tier net worth restoration plan.” Also, we urge commenters to recognize that, while given substantial discretion in certain areas of PCA, NCUA lacks the authority to override or expand by regulation the requirements, limitations and definitions that CUMAA expressly prescribed. *See* 12 U.S.C. 1790d(n). For example, NCUA lacks the discretion to abandon the statutory “realistic assumptions” criterion for approving an NWRP. 12 U.S.C. 1790d(f)(5). This rulemaking will not address proposals that would require NCUA to exceed the scope of its statutory authority.

## B. Proposal for “1st Tier Net Worth Restoration Plan”

The proposed rule permits an “eligible” federally-insured credit union to submit for NCUA approval a “1st tier net worth restoration plan” (“1st tier NWRP”) if the credit union falls marginally below “adequately capitalized” because asset growth, driven primarily by share and deposit growth, outpaces growth in net worth.<sup>1</sup>

### 1. Eligible Credit Unions

To be eligible to file a 1st tier NWRP, the proposed rule establishes historical net worth, performance, and growth criteria. The three eligibility criteria are designed to qualify only those credit unions that historically are profitable and have become marginally “undercapitalized” primarily because of undiluted share growth.

To be eligible, a credit union must meet two net worth criteria. First, a credit union must have a minimum net worth ratio of 5.50% as measured using the quarter-end balance of total assets per § 702.2(k)(1)(iv). New § 702.206(c)(1)(A)(i).<sup>2</sup> As in the case of

an RBNW requirement, § 702.2(k)(2), when measuring current quarter net worth for eligibility purposes, there is no choice among the four methods otherwise available to calculate the total assets denominator of the net worth ratio. 702.2(k)(1). If there is an applicable RBNW requirement, the credit union’s net worth ratio may not be more than 50 basis points (0.50 percent) below the RBNW requirement. New § 702.206(c)(1)(A)(ii).

Second, for each of the three prior quarters, a credit union must have achieved a net worth ratio of at least 6 percent. New § 702.206(c)(1)(B)(i). In contrast to measuring current quarter net worth by quarter-end total assets, for each of the three prior quarters a credit union may elect among any of the four methods of calculating the total assets denominator of the net worth ratio. If that credit union is subject to a RBNW requirement, it also must have met that requirement in each of the three prior quarters. New § 702.206(c)(1)(B)(ii).

A credit union also must meet a performance criterion: for the current and each of the three preceding quarters, a credit union must have increased the dollar amount of its net worth by 60 basis points (0.60 percent) annual return on average assets (“ROAA”). New § 702.206(c)(1)(C)(i). The ROAA is derived from a credit union’s ROAA “key ratio” in its most recent Financial Performance Report, unless a more recently filed Call Report corrects earlier data. *See* NCUA, *User’s Guide for NCUA’s Financial Performance Report* at 3, 8 (form 8008, 2002 ed.). The 60 basis point ROAA reflects the approximate mean of individual credit unions’ ROAA as of June 2002.

Finally, a credit union must meet a growth criterion: for the period combining the current and three preceding quarters, ending total asset growth may not exceed 110% of the growth in net worth plus shares and deposits.<sup>3</sup> New § 702.206(c)(1)(C)(ii). The 110% ceiling is based on growth in net worth, shares and deposits—and excludes growth in borrowings—to narrowly restrict the amount of growth supported by borrowings of a credit union with a net worth ratio below 6 percent. A credit union that grows

least temporarily—and thus will not be required to file any NWRP.

<sup>3</sup> For example, assume the four quarters in question cover the calendar year 2002. Compare the difference between 12/31/01 and 12/31/02 quarter-end total assets with the difference between 12/31/01 and 12/31/02 quarter-end net worth plus shares and deposits. To be eligible, the difference in total assets cannot exceed the difference in net worth plus shares and deposits by more than 10 percent.

<sup>1</sup> Citations to proposed new subsection (c) of § 702.206 are preceded by the word “New” and refer to the rule text below. If proposed subsection (c) is adopted, the final rule will redesignate current subsections (c) through (i) as new subsections (d) through (j), respectively.

<sup>2</sup> A credit union whose net worth ratio is between 5.50 and 5.99% based on the quarter-end balance of total assets may find that calculating its net worth ratio using a daily, monthly or quarterly average of total assets, § 702.2(k)(1)(i)–(iii), will yield a net worth ratio of 6 percent or better. In that event, the credit union will not be “undercapitalized”—at

through substantial borrowings will be required to file a standard NWRP.

Together, these eligibility criteria would allow 57.25% annualized asset growth for one quarter, causing a credit union's net worth ratio to fall from 6 percent to 5.50 percent, provided that its ROAA is 60 basis points.<sup>4</sup> An annual rate of asset growth greater than 57.25% would reduce a credit union's net worth ratio from 6 percent to below 5.50 percent, necessitating the further supervisory oversight that a longer term, standard NWRP provides.

A credit union that meets the three eligibility criteria must file its 1st tier

NWRP within the same 45-day period that § 702.206(a) prescribes for filing a standard NWRP. New § 702.206(c). And as explained below, an eligible credit union receives a single opportunity to seek NCUA approval of a 1st tier NWRP. New § 702.206(c)(4)(A).

## 2. Contents of 1st Tier NWRP

The proposed rule has two content requirements for a 1st tier NWRP. First, a plan must include a realistic pro forma projection of growth in total assets, shares, ROAA and net worth ratio over the next four quarters, that will result in a net worth ratio of at least 6 percent

and meet any applicable RBNW requirement. New § 702.206(c)(2)(A). The duration of a 1st tier NWRP is four quarters. Second, a plan must include a statement describing how the credit union will control exposure to market and institution risks arising from any new activities that it plans to undertake over the next four quarters. New § 702.206(c)(2)(B). The following table illustrates the ROAA a credit union would need to achieve to restore net worth from 5.50 to 6 percent over four quarters while offsetting given annual growth rates:

TABLE A.—ROAA REQUIRED TO RESTORE NET WORTH TO 6% WHILE OFFSETTING ANNUALIZED ASSET GROWTH

Return on average assets (in basis points) .....	60	70	80	90	100
Annual rate of asset growth .....	1.72%	3.45%	5.21%	7.35%	8.78%

As suggested above, a more detailed standard NWRP typically would be appropriate when the annual rate of asset growth is projected to exceed the capacity of the offsetting ROAA to restore net worth to 6 percent and to meet an applicable RBNW requirement over four quarters.

There are three principal differences between the content requirements of a standard NWRP and those of a 1st tier NWRP. First, a standard plan must include complete pro forma financial statements covering a minimum of two years, whereas a 1st tier plan requires four quarters of pro forma projections of total assets, shares and deposits, return on average assets and net worth. Second, a standard plan requires the credit union to specify what steps it will take to meet its schedule of quarterly net worth targets. In contrast, a 1st tier NWRP does not address what steps the credit union will take to become "adequately capitalized" at the end of the term of the plan. Finally, a standard NWRP requires those steps to extend beyond the term of the plan to ensure that the credit union remains at least "adequately capitalized" thereafter for four consecutive calendar quarters. *Id.* In contrast, a 1st tier plan does not address the credit union's net worth after the end of the term of the plan.

## 3. Criteria for Approval

For an NWRP to be approved, CUMAA requires NCUA to determine that it "is based on realistic assumptions and is likely to succeed in restoring the net worth of the credit union." 12 U.S.C.

1790d(f)(5). To avoid any suggestion that a 1st tier NWRP will be exempt from this statutory mandate, the proposed rule clarifies that approval is subject to NCUA's case-by-case determination that the growth rate and ROAA projected for the credit union rest on realistic assumptions that are likely to succeed in restoring its net worth ratio to 6 percent and satisfying any applicable RBNW requirement at the end of the term of the plan. New §§ 702.206(c)(3), 702.206(c)(2)(A).

Under the proposed rule, a 1st tier NWRP would be evaluated under the existing approval criteria that apply to a standard NWRP. § 702.206(d). First, NCUA would determine whether an NWRP satisfied the content requirements of the proposed rule. Second, NCUA would review the plan's growth and ROAA projections to ensure that they are supported by "realistic assumptions." To that end, the projections will be compared to historical growth and performance measures. Third, absent evidence to the contrary, NCUA would presume that a 1st tier NWRP would not unreasonably increase the credit union's exposure to risk. As part of the three-step evaluation, NCUA may consider the risk presented by any new activities the credit union plans to undertake and by other supervisory information. New § 702.206(c)(2)(B). This would include, for example, information from examination reports or insurance reviews, as well as CAMEL codes (*e.g.*, no composite "4"s or "5"s).

Once the evaluation is completed, NCUA would follow the same schedule for decision and notification that applies to standard NWRPs. § 702.206(f). Absent safety and soundness concerns, a 1st tier NWRP that meets the content requirements discussed above and that is determined by NCUA to be based on "realistic assumptions" should receive prompt approval.<sup>5</sup>

## 4. Requirement To File Standard NWRP

There are three circumstances in which a credit union that is eligible to file a 1st tier NWRP will be required to file a standard NWRP instead. First, unlike a credit union that files a standard NWRP, the proposed rule gives an eligible credit union a single opportunity to submit a 1st tier NWRP for approval. If that plan is not approved, the credit union will then be required to file a standard NWRP under § 702.206(b), within the time period provided in § 702.206(g). New § 702.206(c)(3)(A).

Second, a continuing decline in net worth ratio while operating under an approved 1st tier NWRP will trigger the requirement to file a standard NWRP. The proposed rule requires a credit union to file a standard NWRP if, during the term of an approved 1st tier NWRP, its net worth ratio declines below 5.5% or declines more than 50 basis points below an applicable RBNW requirement. New § 702.206(c)(4)(B). A more detailed, standard NWRP will enable NCUA to assess the adequacy of a credit union's plans to address the

<sup>4</sup> A 57.25% annualized rate of growth represents growth of approximately 12%, compounded, per quarter.

<sup>5</sup> Like a standard NWRP, once a 1st tier NWRP is approved, the credit union will no longer be subject to the statutory restriction on asset growth, 12 U.S.C. 1790d(g)(1)(A), but will still be required to

comply with CUMAA's two other mandatory supervisory actions—the earnings retention requirement, *id.* § 170d(e), and the restriction on MBLs, *id.* § 1790d(g)(2).

causes of a decline in net worth ratio below 5.5%, and to assess more thoroughly the increase in risk to the National Credit Union Share Insurance Fund.

Finally, the proposed rule requires a credit union to file a standard NWRP under § 702.206(b) if, at the end of the term of its 1st tier NWRP (*i.e.*, at the fourth quarter-end), it has failed to restore its net worth ratio to 6 percent and to meet any applicable RBNW requirement. New § 702.206(c)(4)(C). Once that credit union triggers the requirement to file a standard NWRP, it will not be eligible to file another 1st tier NWRP until it is no longer operating under a standard plan.<sup>6</sup>

## Regulatory Procedures

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis describing any significant economic impact a proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The proposed rule expedites implementation of the existing system of PCA mandated by Congress. 12 U.S.C. 1790d. The NCUA Board has determined and certifies that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Thus, a Regulatory Flexibility Analysis is not required.

### *Paperwork Reduction Act*

NCUA has determined that the proposed rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget. Control number 3133-0161 has been issued for part 702 and will be displayed in the table at 12 CFR part 795.

### *Executive Order 13132*

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on State and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily adheres to the fundamental federalism principles addressed by the executive order. This proposed rule

<sup>6</sup>In contrast, a credit union that succeeds in restoring its net worth in the second quarter of a 1st tier NWRP, and that stays "adequately capitalized" for the third and fourth quarters of the plan, will become eligible, in the first quarter after that plan ends, to file another 1st tier NWRP if it declines below "adequately capitalized." By the quarter after the original 1st tier NWRP ends, that credit union will have been "adequately capitalized" in each of the three preceding quarters. New § 702.206(c)(1)(B).

would apply to all federally-insured credit unions, including State-chartered credit unions. Accordingly, it may have a direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This impact is an unavoidable consequence of carrying out the statutory mandate to adopt a system of prompt corrective action to apply to all federally-insured credit unions. NCUA staff has consulted with a committee of representative State regulators regarding the impact of the proposed rule on State-chartered credit unions. Their comments and suggestions are reflected in the proposed rule.

### *Treasury and General Government Appropriations Act, 1999*

NCUA has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

### *Agency Regulatory Goal*

NCUA's goal is clear, understandable regulations that impose a minimal regulatory burden. A purpose of the proposed rule is to improve and simplify the existing system of PCA. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed.

### List of Subjects in 12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 21, 2002.

**Becky Baker,**

*Secretary of the Board.*

For the reasons set forth above, 12 CFR part 702 is proposed to be amended as follows:

### **PART 702—PROMPT CORRECTIVE ACTION**

1. The authority citation for part 702 continues to read as follows:

**Authority:** 12 U.S.C. 1766(a), 1790d.

2. Amend § 702.206 as follows:

a. Redesignate current paragraphs (c) through (i) as new paragraphs (d) through (j) respectively.

b. Add new paragraph (c) to read as follows:

#### **§ 702.206 Net worth restoration plans.**

\* \* \* \* \*

(c) *1st tier net worth restoration plan.* In lieu of subparagraph (b) of this

section, an eligible federally-insured credit union may elect to file a 1st tier NWRP within the time provided in paragraph (a) of this section, as follows:

(1) *Eligibility.* A federally-insured credit union is eligible to file a 1st tier NWRP if—

(i) For the current quarter—

(A) Its net worth ratio is not less than five and one-half percent (5.50%) as measured using the quarter-end balance of total assets per § 702.2(k)(1)(iv); or

(B) It fails to meet any applicable risk-based net worth requirement by not more than 50 basis points (0.50%); and

(ii) For each of the three prior quarters—

(A) It had a net worth ratio of at least 6 percent (6.0%) as measured using any method of measuring total assets available under § 702.2(k)(1); or

(B) It met any applicable RBNW requirement; and

(iii) For the current and three preceding quarters—

(A) The dollar amount of its net worth increased, on average, by at least the equivalent of 60 basis points (0.60%) return on average assets as reflected in the credit union's Financial Performance Report; and

(B) Growth in ending total assets for the four-quarter period did not exceed one hundred ten percent (110%) of growth in the sum of net worth, shares and deposits for that period.

(2) *Contents.* A 1st tier NWRP must—

(i) Include pro forma projections of total assets, shares and deposits, return on average assets and net worth, covering the next four quarters and resulting in a net worth ratio that restores the credit union to at least "adequately capitalized" at the end of the fourth quarter; and

(ii) Describe how the credit union will control exposure to risk from any new activities over the next four quarters.

(3) *Approval.* A 1st tier NWRP will not be approved unless it meets the content requirements set forth in paragraph (c)(2) of this section and satisfies the approval criteria prescribed in paragraphs (d)(2) and (d)(3) of this section.

(4) *Filing of standard plan.* An eligible federally-insured credit union must file a standard NWRP as provided by paragraph (b) of this section, within the period provided in paragraph (a) of this section, if either—

(i) *Plan not approved.* The 1st tier NWRP that the credit union initially submits is not approved;

(ii) *Declining net worth.* The credit union's net worth ratio, while it is operating within the term of an approved 1st tier NWRP, declines either—

(A) Below five and one-half percent (5.50%) as measured using the quarter-end balance of total assets per § 702.2(k)(1)(iv); or

(B) More than 50 basis points (0.50%) below an applicable risk-based net worth requirement; or

(iii) *Net worth not restored*. The credit union is not classified at least "adequately capitalized" at the end of the term of its 1st tier NWRP.

\* \* \* \* \*

[FR Doc. 02-30089 Filed 11-27-02; 8:45 am]

BILLING CODE 7535-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 02-ANM-07]

#### Proposed Establishment of Class E Airspace, Afton, WY

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class E airspace at Afton, WY. Newly developed Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Afton Municipal Airport has made this proposal necessary. The establishment of Class E airspace is required to contain aircraft executing instrument flight rule (IFR) operations at Afton Municipal Airport within controlled airspace. The intended effect of this action is to provide an increased level of safety for aircraft executing IFR operations between the terminal and the en route phase of flight at Afton Municipal Airport, Afton, WY.

**DATES:** Comments must be received on or before January 13, 2003.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM-520, Federal Aviation Administration, Docket No. 02-ANM-07, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Ed Haeseker, ANM-520.8, Federal Aviation Administration, Docket No. 02-ANM-07, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone number: (425) 227-2527.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 02-ANM-07." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM-520, 1601 Lind Avenue SW, Renton, Washington 98055-4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class E airspace at Afton, WY. Two newly developed RNAV SIAP's, RNAV (GPS) RWY34 and RNAV (GPS) RWY 16, at Afton Municipal Airport, has made this proposal necessary. Establishing Class E airspace, 700-feet controlled airspace above the surface of the earth, is required to

contain IFR operations at Afton Municipal Airport, Afton, WY. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route phase of flight environments. The intended effect of this proposal is designed to provide for the safe and efficient use of the navigable airspace.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700-feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11013; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.



**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

*Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**ANM UT E5 Afton, WY [New]**

Afton Municipal Airport, WY  
(Lat. 42°42'41" N, long. 110°56'32" W)

That airspace extending upward from 700-feet above the surface within a 6.5 mile radius of the Afton Municipal Airport, and within 2 miles either side of the 355° bearing from the airport extending from the 6.5 mile radius to 7.5 miles north of the airport, and within 2 miles either side of the 185° bearing from the airport extending from the 6.5 mile radius to 19.3 miles south of the airport.

\* \* \* \* \*

Issued in Seattle, Washington, on October 24, 2002.

**Raul C. Trevino,**

*Assistant Manager, Air Traffic Division,  
Northwest Mountain Region.*

[FR Doc. 02-29660 Filed 11-27-02; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF DEFENSE****Office of the Secretary****32 CFR Part 311****[Administrative Instruction 81]****Privacy Act; Implementation**

**AGENCY:** Office of the Secretary of Defense, DOD.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of the Secretary of Defense is proposing to exempt two existing systems of records in its inventory of systems of records pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

During the course of a FOIA and/ Privacy Act action, exempt materials from other systems of records may in turn become part of the case records in these systems. To the extent that copies of exempt records from those "other" systems of records are entered into the FOIA and/or Privacy Act case records, the Office of the Secretary of Defense hereby claims the same exemptions for the records from those "other" systems that are entered into this system, as claimed for the original primary systems of records which they are a part. Therefore, OSD is proposing to add

exemptions to the existing systems of records.

**DATES:** Comments must be received on or before January 28, 2003, to be considered by this agency.

**ADDRESSES:** Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bosworth at (703) 601-4728.

**SUPPLEMENTARY INFORMATION:****Executive Order 12866, "Regulatory Planning and Review"**

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

**Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)**

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

**Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

**Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the

private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

**Executive Order 13132, "Federalism"**

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

**List of Subjects in 32 CFR Part 311**

Privacy.

Accordingly, 32 CFR part 311 is amended to read as follows:

**PART 311—OSD PRIVACY PROGRAM**

1. The authority citation for 32 CFR part 311 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 311.8, is amended by adding paragraphs (c)(12) and (13) to read as follows:

**§ 311.8 Procedures for Exemptions.**

\* \* \* \* \*

(c) *Specific exemptions.* \* \* \*

(12) *System identifier and name:*

DFOISR 05, Freedom of Information Act Case Files.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those "other" systems of records are entered into this system, the Office of the Secretary of Defense claims the same exemptions for the records from those "other" systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations,

to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(13) *System identifier and name:* DFOISR 10, Privacy Act Case Files.

(i) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Office of the Secretary of Defense hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary system of which they are a part.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, to preserve the confidentiality and integrity of Federal testing materials, and to safeguard evaluation materials used for military promotions when furnished by a confidential source. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: November 14, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 02-29816 Filed 11-27-02; 8:45 am]

BILLING CODE 5001-08-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 311

##### [Administrative Instruction 81]

#### Privacy Act; Implementation

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of the Secretary of Defense is proposing to add an exemption rule to an existing system of records. The exemption will protect the privacy of individuals identified in the system of records.

**DATES:** Comments must be received on or before January 28, 2003, to be considered by this agency.

**ADDRESSES:** Send comments to OSD Privacy Act Coordinator, Directives and Records Branch, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bosworth at (703) 601-4728.

##### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities

because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

#### Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

#### Executive Order 13132, "Federalism"

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is amended to read as follows:

#### PART 311—OSD PRIVACY PROGRAM

1. The authority citation for 32 CFR part 311 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 311.8 is amended by adding paragraph (c)(14) to read as follows:

##### § 311.8 Procedures for exemptions.

\* \* \* \* \*

(c) Specific exemptions. \* \* \*

(14) *System identifier and name:* DHRA 02, PERSEREC Research Files.

(i) *Exemptions:* Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal

the identity of a confidential source. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(ii) *Authority*: 5 U.S.C. 552a(k)(5).

(iii) *Reasons*: (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation or prosecutable interest by the Department of Defense or other agencies. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the

confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants. The Office of the Secretary of Defense will, nevertheless, continue to publish such a notice in broad generic terms, as is its current practice.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, OSD will grant access to nonexempt material in the records being maintained. Disclosure will be governed by OSD Administrative Instruction #81, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 02-29814 Filed 11-27-02; 8:45 am]

**BILLING CODE 5001-08-P**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### 32 CFR Part 806b

#### [Air Force Instruction 37-132]

#### Privacy Act; Implementation

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Air Force is proposing to add an exemption rule for the system of records F031 DoD A, entitled 'Joint Personnel Adjudication System'. The Joint Personnel Adjudication System is used for personnel security management within DoD, and provides a common, comprehensive medium to record and document personnel security actions within the DoD.

**DATES:** Comments must be received on or before January 28, 2003, to be considered by this agency.

**ADDRESSES:** Send comments to the Air Force Privacy Act Manager, AF-CIO/P, 1155 Air Force Pentagon, Washington, DC 20330-1155.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

#### Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not

significantly or uniquely affect small governments.

#### Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 806b

Privacy.

Accordingly, 32 CFR part 806b is amended to read as follows:

#### PART 806b—AIR FORCE PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR part 806b continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Appendix C to part 806b, is amended by adding paragraph (b)(23) to read as follows:

Appendix C to part 806b—General and specific exemptions.

\* \* \* \* \*

(b) *Specific exemptions.* \* \* \*

(23) *System identifier and name:* F031 DoD A, Joint Personnel Adjudication System.

(i) *Exemption:* (1) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(2) Any portion of this system of records which falls within the provisions of 5 U.S.C. 552a(k)(5) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

(ii) *Authority:* 5 U.S.C. 552a(k)(5).

(iii) *Reasons:* (A) From subsection (c)(3) because to grant access to the accounting for each disclosure as required by the Privacy Act, including the date, nature, and purpose of each disclosure and the identity of the recipient, could alert the subject to the existence of the investigation. This could seriously compromise case preparation by prematurely revealing its existence and nature; compromise or interfere with witnesses or make witnesses reluctant to cooperate; and lead to suppression, alteration, or destruction of evidence.

(B) From subsections (d) and (f) because providing access to investigative records and the right to contest the contents of those records and force changes to be made to the information contained therein would seriously interfere with and thwart the orderly and unbiased conduct of the investigation and impede case preparation. Providing access rights normally afforded under the Privacy Act would provide the subject with valuable information that would allow interference with or compromise of witnesses or render witnesses reluctant to cooperate; lead to suppression, alteration, or destruction of evidence; enable individuals to conceal their wrongdoing or mislead the course of the investigation; and result in the secreting of or other disposition of assets that would make them difficult or impossible to reach in order to satisfy any Government claim growing out of the investigation or proceeding.

(C) From subsection (e)(1) because it is not always possible to detect the relevance or necessity of each piece of information in the early stages of an investigation. In some cases, it is only after the information is evaluated in light of other evidence that its relevance and necessity will be clear.

(D) From subsections (e)(4)(G) and (H) because this system of records is compiled for investigative purposes and is exempt from the access provisions of subsections (d) and (f).

(E) From subsection (e)(4)(I) because to the extent that this provision is construed to require more detailed disclosure than the broad, generic information currently published in the system notice, an exemption from this provision is necessary to protect the confidentiality of sources of information and to protect privacy and physical safety of witnesses and informants.

(F) Consistent with the legislative purpose of the Privacy Act of 1974, the AF will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Air Force Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal or civil violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance

made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 02-29812 Filed 11-27-02; 8:45 am]

BILLING CODE 5001-08-P

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 36 and 54

[CC Docket No. 96-45; DA 02-2976]

#### Comment Sought on Recommended Decision Issued by Federal-State Joint Board on Universal Service Regarding the Non-Rural High-Cost Support Mechanism

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rules; solicitation of comments.

**SUMMARY:** In a document released on November 5, 2002, the Wireline Competition Bureau sought comment on the Recommended Decision of the Federal-State Joint Board on Universal Service addressing issues from the *Ninth Report and Order* that were remanded by the United States Court of Appeals for the Tenth Circuit.

**DATES:** Submit comments on or before December 20, 2002, and reply comments on or before January 3, 2003.

**ADDRESSES:** Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. See Supplementary Information section for where and how to file comments.

#### FOR FURTHER INFORMATION CONTACT:

Katie King, Jennifer Schneider, or Narda Jones, Attorneys, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418-7400; TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Wireline Competition Bureau's Public Notice in CC Docket No. 96-45 released on November 5, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554.

The Wireline Competition Bureau (Bureau) seeks comment on the Recommended Decision of the Federal-

State Joint Board on Universal Service (Joint Board), released on October 16, 2002, addressing issues from the *Ninth Report and Order*, (64 FR 67416, December 1, 1999), that were remanded by the United States Court of Appeals for the Tenth Circuit. The *Ninth Report and Order* established a federal high-cost universal service support mechanism for non-rural carriers based on forward-looking economic costs. The court remanded the *Ninth Report and Order* to the Commission for further explanation of its decision. On February 15, 2002, the Commission issued a *Notice of Proposed Rulemaking*, 67 FR 1087, March 11, 2002, seeking comment on issues remanded by the court and referring the record collected in the proceeding to the Joint Board for a recommended decision.

Comment is sought on the Joint Board's recommendations. Specifically, in its *Recommended Decision*, the Joint Board recommended continued use of statewide average costs and a national benchmark of 135 percent to determine non-rural high-cost support, but recommended that the Commission modify the non-rural high-cost support mechanism by adopting additional measures to induce states to ensure reasonable comparability of urban and rural rates. In particular, the Joint Board recommended that the Commission implement a supplementary rate review, through an expanded annual certification process under section 254(e) of the Act, as a check on whether non-rural high-cost support continues to provide sufficient support to enable the states to maintain reasonably comparable rural and urban rates. The Joint Board recommended that states be required to certify that the basic service rates in their high-cost areas are reasonably comparable to a national urban rate benchmark or explain why they are not. States would have the opportunity to demonstrate that further federal action is needed because current federal support and state actions together are insufficient to yield reasonably comparable rates.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments December 20, 2002, and reply comments January 3, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this

proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5-B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054.

Pursuant to § 1.1206 of the Commission's rules, this proceeding will continue to be conducted as a permit-but-disclose proceeding in

which *ex parte* communications are permitted subject to disclosure.

## Attachment

### I. Introduction

1. In this Recommended Decision, the Federal-State Joint Board on Universal Service (Joint Board) provides its recommendations on issues from the *Ninth Report and Order*, (64 FR 67416, December 1, 1999), that were remanded to the Commission by the United States Court of Appeals for the Tenth Circuit. The *Ninth Report and Order* established a federal high-cost universal service support mechanism for non-rural carriers based on forward-looking economic costs. Consistent with the court's decision, the Joint Board recommends that the Commission modify the non-rural high-cost support mechanism implemented in the *Ninth Report and Order* by adopting additional measures to induce states to ensure reasonable comparability of urban and rural rates. We also recommend that the Commission implement a supplementary rate review as a check on whether non-rural high-cost support continues to provide sufficient support to enable the states to maintain reasonably comparable rural and urban rates. In addition, we recommend continued use of statewide average costs to determine non-rural high-cost support. We believe that these recommendations will enable the Commission to satisfy the court's remand and continue to fulfill Congress's directive in the Telecommunications Act of 1996 to preserve and advance universal service.

### II. Discussion

2. Based on examination of the record in this proceeding, the Joint Board recommends that the Commission modify the non-rural high-cost support mechanism implemented in the *Ninth Report and Order* by adopting additional measures that will establish specific inducements for states to ensure that rates in all regions of the nation are reasonably comparable to rates in urban areas. We also recommend that the Commission implement a supplementary rate review to assess whether non-rural high-cost support continues to provide sufficient support to enable the states to maintain reasonably comparable rates. Consistent with the court's decision, our recommendations with regard to these additional measures will support and complement the Commission's initial decision in the *Ninth Report and Order*. Specifically, we recommend a process that includes the following: (1) Continuing use of a national average cost benchmark based on 135% of the national average cost; (2) funding 76% of state average costs exceeding the national benchmark; (3) establishing a national rate benchmark based on a percentage of the national average urban rate; (4) implementing state review and certification of rate comparability; and (5) providing states the opportunity to demonstrate that further federal action is needed because current federal support and state actions together are insufficient to yield reasonably comparable rates.

3. The Joint Board's recommendations comprise an integrated approach to the complex and interrelated issues referred by

the Commission. We believe that these recommendations will enable the Commission to satisfy the court's remand and continue to fulfill Congress's directive to preserve and advance universal service. We note that this mechanism calculates support only for non-rural carriers. Certain assumptions in this Recommended Decision may not make sense for rural carriers. For example, as discussed below, while statewide averaging is appropriate in the non-rural mechanism, it may not be appropriate for the high-cost mechanism providing support to rural carriers.

#### A. Sufficiency

4. The Joint Board recommends that, for purposes of non-rural high-cost support, sufficiency should be principally defined as enough support to enable states to achieve reasonable comparability of rates. Sufficiency should be defined based on the relevant statutory goals under section 254(b). Thus, the definition of the term may vary depending on the underlying purpose of the universal service program in question. The principal purpose of the non-rural high-cost support mechanism is to provide enough federal support to enable states to achieve reasonable comparability of rural and urban rates, the principle found in section 254(b)(3). As discussed in more detail below, non-rural high-cost support is designed to provide high-cost states enough support so that their net average costs are reasonably comparable to the national average cost. With reasonably comparable net costs, these high-cost states should then have the resources to ensure that rural and urban rates within their borders are reasonably comparable. The Joint Board recommends below that the Commission require states to certify that their rates are reasonably comparable or explain why they are not, and provide states the opportunity to demonstrate that further federal action is needed because current federal support and state action together are insufficient to achieve reasonably comparable rates. Accordingly, for purposes of non-rural high-cost support, the Joint Board recommends that sufficiency be defined as enough support to enable states to achieve reasonably comparable rates.

5. The Joint Board also reaffirms that the statutory principle of sufficiency means that non-rural high-cost support should be only as large as necessary to achieve its statutory goal. Correct fund size is essential to ensure that all consumers benefit from universal service.

#### A. Use of Costs Rather Than Rates To Determine Non-Rural High-Cost Support

6. We explain more fully here why costs rather than rates should continue to be the principal basis for determining federal support flows among states. Congress adopted section 254 to ensure that, as competition develops, there would be explicit support mechanisms in place to preserve the fundamental communications policy goal of providing universal telephone service in all regions of the nation at reasonably comparable rates. Section 254(b)(3) requires reasonably comparable rates. This would be a relatively easy

undertaking if the cost of providing telephone service were comparable in urban and rural areas. But costs are not comparable. The cost of providing telephone service is largely a function of population density and distance. Sparsely populated, rural areas have longer telephone loops, the most expensive portion of the telephone network, and fewer customers to spread the costs among. In some rural areas the cost of providing telephone service may be one hundred times greater than costs in urban areas.

7. Although rates generally are related to costs, states may base rates on numerous considerations in addition to cost. For example, local rates may vary from state to state depending upon each state's local rate design policies; whether or not a carrier's rates are set based on a price cap approach; the degree to which implicit subsidies may remain within local rates; whether a state universal service fund exists; and other factors. Attempting to develop cost support levels based principally on rates would therefore likely be difficult to implement considering the lack of uniformity in local rate design practices and could lead to inequitable treatment between states with substantially similar costs but different local rate policies.

8. For these reasons, the use of costs rather than rates to determine federal support was central to the Commission's decision adopting the non-rural high-cost support mechanism in the *Ninth Report and Order*. We agree with the Commission's past decision that cost analysis offers advantages over rate analysis for purposes of determining Federal support levels. Cost analysis enables accurate comparison of states for purposes of determining federal support levels. The Commission has stated that "[a] state facing costs substantially in excess of the national average may be unable through any reasonable combination of local rate design policy choices to achieve rates reasonably comparable to those that prevail nationwide." Examining the underlying costs enables the Commission to "evaluate the cost levels that must be supported in each state in order to develop reasonably comparable rates."

9. While the inducements to state action on rates and supplemental rate review contained in this recommendation recognize that the ultimate test of rate comparability will be the rates customers actually pay for service, the use of costs for determining the areas of greatest need establishes a firm foundation for the states to fulfill the goals of section 254 of the Act. We recommend that the Commission continue to use a cost-based approach as the principal means of achieving the statutory goal of rate comparability.

#### B. Use of Statewide Averaging To Reflect Appropriate Federal and State Roles in Achieving Rate Comparability

10. The Joint Board recommends that the Commission continue to determine high-cost support for non-rural companies by using statewide average costs. We believe that this reflects an appropriate division of federal and state responsibility for achieving rate comparability for non-rural companies.

Because the states, not the Commission, set intrastate rates, the states have primary responsibility for ensuring reasonably comparable rural and urban rates. States tend to rely on either implicit or explicit mechanisms to transfer support from low-cost lines to high-cost lines within a state.

11. Despite implicit or explicit state support mechanisms, the low-cost areas of some states cannot balance their high-cost areas. Although such states could, through their own efforts, achieve reasonably comparable rates within their own boundaries, those rates would still be high relative to the national average because of the states' high average costs. The Commission's primary role is to identify those states that do not have the resources within their borders to support all of their high-cost lines. The non-rural high-cost support mechanism achieves this through the comparison of statewide average cost to a national cost benchmark. The averaging process provides a logical means to assess the relative extent to which states can support their high-cost areas by using resources from low-cost areas. By shifting funds to states with average costs above the national benchmark, the Commission provides federal support that is intended to enable high-cost states to set rates that are reasonably comparable to all rates across the nation.

12. The Commission explained in the *Ninth Report and Order* that the non-rural high-cost support mechanism "has the effect of shifting money from relatively low-cost states to relatively high-cost states." The Commission believed that its non-rural support mechanism ensured that no state with costs greater than the national benchmark would be forced to keep rates reasonably comparable without the benefit of federal support. Statewide averaging assigns to the states the primary responsibility for ensuring reasonable comparability of rates within their borders and permits states to use their resources to achieve the goal of reasonable comparability within states. We continue to support these policies.

13. We disagree with the contention of the Rural Utilities Service that high-cost customers are being hidden by statewide averaging. The Rural Utilities Service was concerned about the circumstance in which some customers have high costs but the state average is not high enough to qualify for support. The use of statewide average costs reflects what we believe to be an appropriate policy decision that in such cases the state has the primary responsibility and demonstrated ability to ensure rate comparability. Federal support is needed when the state, because of its high average cost, cannot solve such a problem without imposing an undue burden on its own ratepayers.

14. While statewide averaging is appropriate in the non-rural mechanism, it may not be appropriate for the high-cost mechanism providing support to rural carriers. Many rural carriers lack the economies of scale and scope of the generally larger non-rural carriers, as the Rural Task Force established in documenting differences that exist between rural and non-rural companies. The Commission has stated that

it intends to ask the Joint Board to conduct a comprehensive review of the high-cost support mechanisms for rural and non-rural carriers as a whole to ensure that both mechanisms function efficiently and in a coordinated fashion. Accordingly, the Joint Board does not address the complex issues surrounding high-cost support for rural telephone companies in this Recommended Decision. The Joint Board emphasizes that the current recommendation is not intended to apply to rural companies. Now that the Joint Board has concluded its recommended decision on the issues in the court's remand, we look forward to a Commission referral of a comprehensive review of the rural and non-rural high-cost support mechanisms.

### C. Benchmark

15. Based on examination of the record, the Joint Board continues to support the 135% benchmark. The court appeared to consider the ability to produce reasonably comparable urban and rural rates as a key factor in supporting an appropriate cost benchmark. As the court observed, although non-rural high-cost support is distributed based on a comparison of national and statewide average costs, the benchmark must be ultimately based on attainment of the statutory principle of reasonable comparability of urban and rural rates. We have noted that the Joint Board and Commission have found in prior rulings that current rates are affordable and reasonably comparable. These findings are supported by a recent General Accounting Office (GAO Report). Based on data contained in the GAO Report, it appears that six years after passage of the Act the national averages of rural, suburban and urban rates for residential customers diverge by less than two percent. We believe that the comparability of average rural and urban rates supports continued use of the 135% cost benchmark. In addition, the Joint Board finds that the current benchmark is empirically supported by a cluster analysis and a standard deviation analysis. Both of these methods indicate that the 135% benchmark targets support to states with substantially higher average costs than other states, consistent with the purpose of non-rural high-cost support.

16. Verizon argues that the 135% benchmark is consistent with Congressional intent that federal support be sufficient to maintain the range of rates existing at the time the 1996 Act was adopted. We agree with Verizon that one of the goals of the 1996 Act was to ensure that rates remain reasonably comparable as competition develops. Congress was concerned that competition would erode implicit support and adopted section 254 to preserve and advance universal service. Verizon argues further that rates have not changed substantially since 1996, so the range of existing rates, as reflected in the GAO Report, should be used to determine what is reasonably comparable. Because 95% of rates fall within two standard deviations of the mean, Verizon argues that rural rates within two standard deviations of urban rates should be considered reasonably comparable. Verizon points out that an analysis of the Commission's cost model shows that two

standard deviations translates approximately to a 135% cost benchmark. Thus, Verizon argues that rural rates within two standard deviations of urban rates should be considered reasonably comparable and that the cost benchmark level of 135% is justified because it is nearly equivalent to two standard deviations. As discussed below, we agree.

17. The current benchmark is supported by a standard deviation analysis. Standard deviation is a commonly used statistical analysis that measures dispersion of data points from the mean of those data points. In a normal distribution, data points within two standard deviations of the mean will comprise approximately 95% of all data points. In other words, use of two standard deviations will identify data points that are truly outliers within the sample studied. Verizon points out that both the Commission and state commissions have adopted this statistical approach as a standard for determining parity or comparability. As applied to the cost of non-rural lines, the measurement of two standard deviations from the national average cost results in approximately 132% of the national average cost. Based on this information, the Joint Board concludes that the 135% benchmark is a reasonable dividing line separating high-cost states from the remainder of average and low-cost states.

18. The Joint Board used a cluster analysis to determine that the states receiving non-rural high-cost support under the current 135% benchmark are states that have substantially higher average costs than other states. Cluster analysis is an analytical technique that organizes information around variables so that relatively homogeneous groups, or clusters, can be identified. The Joint Board used cluster analysis to identify groups of states that had similar cost characteristics, thereby warranting different treatment regarding universal service support. Specifically, states were sorted from lowest- to highest-cost based on statewide average cost per loop. Clusters were identified in this ranking if the difference in average costs between states was greater than "cluster split differences" ranging from 2.5 to 0.5. Under this analysis, Mississippi was the first to break out into a separate cluster, and the second was the District of Columbia. The first group of states to break out into a separate rural, high-cost cluster included Kentucky, Maine, Alabama, Vermont, Montana, West Virginia and Wyoming. The remaining states, ranging from New Jersey to Nebraska, formed a separate urban, low-cost cluster. When Mississippi and the District of Columbia, the respective high- and low-cost "outliers," were combined into the two larger clusters, "cluster stability" was achieved for a wide range of numerical values from 2.5 to 0.85. "Cluster stability" means that the same clusters are maintained even as the numerical values are varied, indicating a strong similarity among members of the cluster groups. Because cluster analysis identifies a high-cost, rural cluster of states that matches the group of states currently receiving support under the non-rural high-cost support mechanism, the Joint Board finds that the cluster analysis empirically supports the current 135% benchmark.

19. Because the standard deviation analysis and the cluster analysis both support 135% as a reasonable benchmark, the Joint Board recommends continued use of the 135% benchmark. The court recognized that the use of any benchmark may be somewhat arbitrary; however, choice of a specific, percentage-based benchmark (as opposed to a mathematically calculated benchmark based on two standard deviations which may result in a different percentage each year) provides certainty to the funding process that carriers and states desire. Accordingly, the Joint Board recommends continued use of a 135% benchmark. The supplemental rate comparability review which we recommend will allow the Commission to assess how successfully the non-rural high-cost support ensures reasonable comparability of rates.

20. Some commenters suggest that, in light of the court's decision, it would be more appropriate to use a benchmark based on average urban cost, rather than nationwide average cost. The Joint Board recommends that the Commission continue to use a nationwide cost benchmark. The national benchmark is intended to ensure that each state has a relatively equal ability to achieve reasonable comparability of urban and rural rates. We do not agree that an urban cost benchmark would better satisfy the statutory comparison of urban and rural rates. Like the current mechanism, the urban benchmark substitutes costs for rates. In addition, rather than comparing rural and urban costs, it compares statewide average costs to nationwide urban costs.

21. The urban benchmark proposal would require more funding or a higher benchmark level because urban average costs are lower than national average costs. For example, an urban benchmark of 165% would yield roughly the same support amounts as the current 135% national benchmark. An urban benchmark of less than 165% would require more federal support. The *GAO Report* suggests that more federal support is not necessary because urban and rural rates are similar. Proponents of the urban benchmark have not explained how additional funding produced by an urban benchmark would produce reasonably comparable rates, nor have they provided a rational justification for setting the benchmark at any particular level.

22. The urban benchmark proposal is premised in part on the argument that the current 135% national benchmark cannot enable rate comparability because it is equivalent to about 165% of urban average cost, near the 70–80% range of variability that the court doubted was reasonably comparable. As explained, however, rates do not necessarily equate to costs, so setting a 135% national benchmark (or 165% urban benchmark) does not mean intrastate rates will vary to the same degree. For the same reason, establishing cost support based on an urban benchmark will not ensure that urban and rural rates will be reasonably comparable. Because the urban benchmark proposal does not improve the operation of the high-cost support mechanism, nor address the rate comparability concerns of the court, the Joint Board recommends that the current national benchmark be retained, supplemented by rate review to ensure comparability of urban and rural rates.



23. As discussed, a "step function" provides gradually more support for costs that exceed certain thresholds or "steps" above the national average. BellSouth supports the 135% benchmark, but proposes an additional, lower benchmark to provide some support to carriers in states with average costs between 100 and 135% of the national average cost. BellSouth proposes a step function as a means of distributing support more widely among states and, thereby, inducing states to ensure reasonable comparability of urban and rural rates. As discussed, the purpose of non-rural high-cost support is to provide sufficient support to enable high-cost states to develop reasonably comparable rates. Providing additional support merely to induce states to ensure rate comparability without determining that additional support is necessary may conflict with the principle that support should be only as large as necessary. Nevertheless, a step function could promote predictability by preventing a total loss of federal support if small cost changes cause a state's average cost per line to fall below the dollar amount of the 135% benchmark in a given year. We believe that use of a step function may have benefits and warrants further consideration; however, the Joint Board does not recommend that the Commission add a step function to the non-rural high-cost support mechanism at this time. In light of the need to respond expeditiously to the court's remand, the Joint Board expects to address the issue of a step function in its comprehensive review of the rural and non-rural support mechanisms.

#### *D. Reasonable Comparability and State Inducements*

24. The Joint Board recommends that the Commission implement a procedure that will induce states to achieve reasonably comparable rates and enable the Commission to take additional action, if necessary, to achieve comparable rates. Specifically, the Joint Board recommends the Commission expand the current annual certification process under section 254(e) of the Act to require states to certify that the basic service rates in high-cost areas served by eligible telecommunications carriers (ETCs) within the state are reasonably comparable to a national rate benchmark. For purposes of this state certification process, the Joint Board recommends that high-cost areas be defined as all wire centers with a line density less than 540 lines per square mile. As part of the certification process, all states should be required to compare basic service rates based on a standard template. The Commission should also establish a "safe harbor" whereby a state whose rates are at or below a certain rate benchmark may certify that their basic service rates in high-cost areas are reasonably comparable without the necessity of submitting rate information. However, states would have the option of submitting additional data to demonstrate that other factors affect the comparability of their rates. If a state's rates are more than the rate benchmark, the state could request further federal action based on a showing that federal support and state actions together were not sufficient to yield reasonably

comparable basic service rates statewide. Further federal actions could include, but are not limited to, additional targeted federal support, or actions to modify calling scopes or improve quality of service where state commissions have limited jurisdiction. A state requesting further federal action must show that it has already taken all actions reasonably possible and used all available state and federal resources to make basic service rates reasonably comparable, but that rates nevertheless fall above the benchmark. A state whose basic service rates exceed the rate benchmark and that requests further federal action should be required to submit rate data in support of its certification, based on a basic service rate template. The Joint Board recognizes that it may be appropriate to use 135% for the safe harbor rate benchmark, but recommends that the Commission further develop the record to establish the appropriate rate benchmark for the safe harbor.

25. The Joint Board believes that this expanded certification process meets the court requirement to induce state action to achieve rate comparability. With any support mechanism, the proof of success must be evaluated not only on whether the mechanism as a whole generally achieves rate comparability, but also upon the degree and nature of any exceptions. The court criticized the Commission for failing to adequately reconcile its conclusion that rates were generally comparable in light of instances where state rates were reportedly high. Together with federal non-rural high-cost support, the expanded certification process will ensure that rates " \* \* \* in all regions of the Nation \* \* \* are reasonably comparable \* \* \*" as set forth in section 254(b)(3). The expanded certification process encourages states to scrutinize their rates using the basic service rate template, to determine whether they are reasonably comparable, and if not, to take actions to make them reasonably comparable. When state basic service rates are at or below the rate benchmark level, then there should be a presumption that rates in that state are reasonably comparable to national urban rates. This recommended approach affords the states maximum flexibility to determine basic service rates. The Commission should accord substantial deference to these state certifications.

#### *i. Rate Benchmark*

26. As an initial matter, the Joint Board recommends that the Commission base the rate benchmark on the most recent average urban residential rate as shown in the Bureau's *Reference Book*, as modified to reflect the most recent changes in subscriber line charges (SLC). The average urban rate can be adjusted annually based on data from the Bureau's annual rate survey. The Joint Board recognizes that it may be appropriate to use 135% for the safe harbor benchmark. Use of a 135% rate benchmark is consistent with the national average cost benchmark of 135%. The Joint Board believes that, since cost-based support is provided to ensure statewide average costs do not exceed 135% of the national average, most states should be able to maintain average rates below 135% of the national average urban rate. Based on the

current national average urban rate, as adjusted, a 135% rate benchmark would be \$30.16 per line per month. The Joint Board recommends that the Commission further develop the record to establish the appropriate rate benchmark for the safe harbor.

27. The Joint Board emphasizes that any rate benchmark established is meant simply as a "safe harbor" for the purposes of determining rate comparability. The Joint Board does not suggest through this Recommended Decision that it is appropriate that any rates be increased to that level. The Joint Board recognizes and supports the role of state commissions in setting rates within each state. The Joint Board recommends requiring that states review only residential rate information at this time. The Joint Board suggests that it may be appropriate to solicit comment as to whether only residential or residential and business rates eventually should be reviewed by the states.

#### *ii. Basic Service Rate Template*

28. The Joint Board recommends that the Commission establish a basic service rate template for states to use to compare rates. We suggest that the basic service rate template should include the items contained in the annual rate survey by the Bureau. The Joint Board recommends that the template include the following factors: the rate for a line with access to the public switched network, federal subscriber line charge, state subscriber line charge (if any), federal universal fund charge, state universal fund charge (if any), local number portability charge, telecommunications relay service charge, 911 charges, federal universal service credits (if any), state universal service credits (if any) and the federal excise tax.

#### *iii. Expanded Rate Certification Process*

29. The expanded state certification process would augment the existing state certification under section 254(e) of the Act. The existing procedure requires states to certify that all ETCs that receive federal universal service funding are using the funds to achieve the goals of the Act. The new procedure would expand reporting requirements to include a discussion of rate comparability. In the expanded certification process, states typically would report in one of four ways:

a. Rates within the state fall below the benchmark and are considered by the state to be reasonably comparable. No further showing should be required.

b. Rates are not below the benchmark, but may nevertheless be considered reasonably comparable. A state could show that due to other factors—for example, additional services included in the basic service rate or the method in which the state has targeted existing universal service support—the rates above the benchmark actually should be presumed reasonably comparable. In the alternative, the state could report on actions it intends to take to achieve reasonable comparability.

c. Rates are below the benchmark, but are not reasonably comparable. A state may show that even though actual rates are within the safe harbor, the price paid for service received results in rates and services that are



not reasonably comparable. In this case, a state could show that existing basic service is lacking in some way. For example, the state could show that the local calling area size is too small to be considered comparable service, and that toll or extended area service charges should be included to produce a reasonably comparable rate. In addition to explaining why rates within the safe harbor should not be considered reasonably comparable, the state must also show the actions it has taken or is going to take to remedy the discrepancy, prior to requesting additional federal actions to achieve reasonably comparable rates.

d. Rates are above the benchmark and are not reasonably comparable. A state could request federal action based on a showing that current combined federal and state actions are insufficient to produce reasonably comparable rates. If the state asserts that existing federal support and state resources are not sufficient for the state to attain reasonably comparable rates, the state should be required to show that it has already taken all available steps to remedy the situation, but that rates remain above the benchmark. If the state can make this showing, the Commission would consider taking further action to meet the needs of the state in achieving reasonably comparable rates.

30. The Joint Board recommends that states certifying that their rates fall at or below the national rate benchmark and are reasonably comparable should not be required to submit any additional rate information. Any states requesting additional federal action should be afforded great flexibility in making their presentations, but should be required to fully explain the basis for their request. Factors that should be addressed by any such state would include, but not be limited to: Rate analysis and a demonstration why the state contends that rates are not reasonably comparable; any other factors that should be considered in evaluating rates; and a demonstration that the state has taken all reasonably possible steps to develop maximum support from within the state. The requesting state should fully explain how it has used any federal support currently received to help achieve comparable rates and whether the state has implemented a state universal service fund to support rates in high-cost areas of that state. The Joint Board recommends the Commission develop exact procedures to be used in filing and processing requests for further federal actions. In particular, the Joint Board recommends that the Commission establish a time limit for consideration of such state requests, to ensure that requests will be processed and decided expeditiously.

### III. Recommending Clause

31. This Federal-State Joint Board pursuant to section 254(a)(1) and section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 254(a)(1) and 410(c), recommends that the Commission adopt the proposals described relating to issues from the *Ninth Report and Order* that were remanded to the Commission by the United States Court of Appeals for the Tenth Circuit.

Federal Communications Commission.

**William Scher,**

*Assistant Division Chief,*

*Telecommunications Access Policy Division.*

[FR Doc. 02-30164 Filed 11-27-02; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket No. 02-278; DA 02-3210]

### Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** On September 18, 2002, the Commission released a document (67 FR 62667, Oct. 8, 2002) seeking comment on whether it should change its rules restricting telemarketing calls and facsimile advertisements. This document grants, in part, and denies, in part, the motion of the American Teleservices Association (ATA) to extend the time to file comments in our TCPA proceeding in CG Docket No. 02-278.

**DATES:** Comments are due in this proceeding on December 9, 2002, and reply comments are due January 8, 2003.

**ADDRESSES:** Parties who choose to file comments by paper must file an original and four copies with the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. Comments may also be filed using the Commission's Electronic Filing System, which can be accessed via the Internet at <http://www.fcc.gov/e-file/ecfs.html>.

**FOR FURTHER INFORMATION CONTACT:** Erica H. McMahon or Richard D. Smith, Consumer & Governmental Affairs Bureau, (202) 418-2512.

**SUPPLEMENTARY INFORMATION:** On November 13, 2002, the American Teleservices Association (ATA) filed a motion for extension of time to file comments in CG Docket No. 02-278. It is not Commission policy to routinely grant extensions of time. However, we find that a brief extension of time to file comments in this proceeding is in the public interest. We therefore grant, in part, and deny, in part, ATA's request to extend the comment period in this proceeding. In so doing, we note that

many parties seeking to file comments in this proceeding are consumers who may lack familiarity with the Commission's process for filing comments. We believe an extension of time will help to ensure that these parties have ample opportunity to participate. In addition, because the Consumer & Governmental Affairs Bureau (Bureau) responded to ATA's FOIA request on November 14, 2002 by giving ATA 250 redacted complaints, the additional time will afford ATA ample opportunity to review those complaints. Finally, we extend the reply comment period to 30 days following the comment deadline to allow parties a sufficient opportunity to respond to the large number of comments already filed in this proceeding. As of November 19, 2002, over 4,100 comments have been filed in response to the Notice of Proposed Rulemaking (Notice).

We decline, however, to extend the comment period to the full extent requested by ATA. We do not believe that it would be in the public interest to delay this entire proceeding by several months based on the rationale provided in ATA's motion. In particular, we disagree with ATA's contention that ATA must obtain the approximately 11,000 TCPA-related complaints and 1,500 inquiries filed from 2000-2001 prior to commenting on the issues presented in the Notice. The Notice presents, in detail, the specific issues and rules that are under consideration for review in this proceeding. We believe this information allows parties a full and complete opportunity to respond to these issues. In addition, as noted above, the Commission has provided 250 such complaints to ATA in response to its FOIA request. ATA will have an opportunity to analyze those complaints prior to submitting its comments. The Commission intends to work diligently to provide a complete response to ATA's FOIA request. To the extent necessary, ATA will have additional opportunities to supplement its comments through *ex parte* filings.

### List of Subjects in 47 CFR Part 64

Telephone.

Federal Communications Commission.

**Margaret M. Egler,**

*Deputy Chief, Consumer & Governmental Affairs Bureau.*

[FR Doc. 02-30252 Filed 11-27-02; 8:45 am]

**BILLING CODE 6712-01-P**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****49 CFR Parts 390 and 396****[Docket No. FMCSA-98-3656]****RIN 2126-AA38****General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of intent to consider negotiated rulemaking process.

**SUMMARY:** The FMCSA announces it is exploring the feasibility of conducting a negotiated rulemaking (Reg Neg) concerning maintenance of intermodal container chassis and trailers. The FMCSA has hired a convenor to speak to interested parties about the idea of a Reg Neg. The FMCSA anticipates that these interested parties may include driver organizations, motor carriers, ocean carriers, rail carriers, port authorities, chassis owners, safety advocacy groups, enforcement officials, and insurers.

**DATES:** Please submit your comments no later than January 13, 2003.

**ADDRESSES:** Please mail or hand deliver comments about this notice to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590; fax to the Docket Management Facility at 202-493-2251; or submit electronically at <http://dms.dot.gov>. Please include the docket number that appears in the heading of this document in your comments. You can copy or examine all comments received at the above street address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays and on-line at <http://dms.dot.gov>. If you want notification of receipt of comments please include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah M. Freund, Vehicle and Roadside Operations Division (MC-PSV), Office of Bus and Truck Standards and Operations, (202) 366-4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On February 17, 1999, the FMCSA published an advance notice of proposed rulemaking (ANPRM) to

ensure that it would consider all the pertinent issues that could impact any potential rulemaking changes for the maintenance of intermodal container chassis and trailers (64 FR 7849). The FMCSA took comments on the ANPRM and held three public meetings in 1999. The meetings were held in the States of Washington, Illinois, and New York. Docket FMCSA-98-3656 has 100 comments and 3 meeting transcripts in response to the ANPRM and public meetings.

The Regulatory Identification Number (RIN) for this action had been 2125-AE40 in February 1999 and is now 2126-AA38.

The FMCSA is now studying the feasibility of using the Reg Neg process for this proceeding. In a Reg Neg, an agency invites representatives of interested parties that are likely to be affected by a regulation to work with each other and the agency on a negotiating committee to develop a consensus draft of a proposed rule. The agency would then publish the proposal for public comment under customary regulatory procedures. The FMCSA believes cooperative problem solving should be given serious consideration. An agency must determine whether an appropriate advisory committee can be assembled that would fairly represent all affected interests and negotiate in good faith. The FMCSA has, therefore, retained a neutral convenor (Charles Pou, Jr.) to undertake the initial stage in the Reg Neg process. Mr. Pou's curriculum vitae has been placed in docket FMCSA-98-3656 for the public's convenience.

The neutral convenor will interview affected interests, including but not limited to, driver organizations, motor carriers, ocean carriers, rail carriers, port authorities, chassis owners, safety advocacy groups, enforcement officials, insurers, and others. The convenor will determine whether additional categories of interested parties may be necessary. The convenor will, among other things, examine the potential for adequate and balanced representation of these varied interests on an advisory committee that would be convened to negotiate the regulation. The convenor will then submit a written report of findings and recommendations to the agency. The convenor's report will provide a basis for the FMCSA to decide whether to proceed with Reg Neg, and, if so, to determine the scope of the issues the committee would be charged with addressing. In the alternative, the FMCSA may decide to proceed with traditional notice-and-comment rulemaking, or to discontinue the rulemaking.

All interested parties should know that the confidentiality provisions of the Administrative Dispute Resolution Act, 5 U.S.C. Section 574, will apply to the convenor's activities. The Federal Government will make no claim to the convenor's notes, memoranda, or recollections or to documents provided to the convenor in confidence in the course of the convening process.

The convenor will not interpret FMCSA or DOT policy on behalf of the FMCSA or DOT nor make decisions on items of policy, regulation, or statute. The convenor will not take a stand on the merits of substantive items under discussion.

The FMCSA will provide any comments it receives in reaction to this notice to the convenor and will file the comments in docket FMCSA-98-3656. If you want to submit comments to this notice directly to the docket, use the addresses above under the heading

**ADDRESSES.**

Should the FMCSA decide to proceed with a Reg Neg process, the agency will follow the procedures set forth in the Negotiated Rulemaking Act of 1996, 5 U.S.C. 561 *et seq.* This would include the establishment of a negotiating committee under the Federal Advisory Committee Act (5 U.S.C. Appendix 2), and a **Federal Register** notice setting forth full particulars about the process and public participation.

Issued on: November 22, 2002.

**Brian M. McLaughlin,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 02-30102 Filed 11-27-02; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 18****RIN 1018-AH86****Florida Manatees; Incidental Take During Specified Activities; Proposed Rule: Notice of Public Hearings**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of public hearings.

**SUMMARY:** We, the Fish and Wildlife Service, give notice that we are holding an additional public hearing on the proposed rule to allow incidental take of Florida manatees under the Marine Mammal Protection Act. We invite all interested parties to submit comments on this proposal.

**DATES:** We will hold an additional public hearing from 6 to 9 p.m. on Thursday, December 12, 2002, in Fort Lauderdale, Florida (see item 7. under **ADDRESSES**). Previously announced hearings will be held from 6 to 9 p.m. on Monday December 2, 2002, in Fort Myers, Florida; Tuesday December 3, 2002, in Tampa, Florida; Wednesday December 4, 2002, in Melbourne, Florida; Thursday December 5, 2002, in Daytona Beach, Florida; Monday December 9, 2002, in Palatka, Florida; and Tuesday December 10, 2002, in Gainesville, Florida. The comment period will close on January 13, 2003. We will consider any comments received by the closing date in the final decision on this proposal.

**ADDRESSES:** We will hold the public hearings at the following locations:

1. Harborside Convention Hall, 13675 Monroe St., Ft. Myers, Florida
2. Holiday Inn, 4732 N. Dale Mabry Hwy., Tampa, Florida
3. Radisson Hotel & Conference Center, 3101 N. Highway A1A, Melbourne, Florida
4. Daytona Beach Resort & Conference Center, 2700 N. Atlantic Ave., Daytona Beach, Florida
5. Holiday Inn Conference Center, 201 North 1st St., Palatka, Florida
6. Doubletree University Florida Hotel & Conference Center, 1714 SW 34th St., Gainesville, Florida
7. Renaissance Hotel, 1617 SE 17th St (SR A1A), Fort Lauderdale, Florida

You may submit written comments and materials concerning the proposal at the hearings or send them directly to the Field Supervisor, U.S. Fish and Wildlife Service, North Florida Field Office, ATTN: Proposed MMPA Rule, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216. You may also hand-deliver written comments to our North Florida Field Office, at the above address, or fax your comments to 904/232-2404. Additionally, you may send comments by electronic mail (e-mail) to [manatee@fws.gov](mailto:manatee@fws.gov).

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8:00 a.m. to 4:30 p.m., at the above address. You may obtain copies of the proposed rule and draft environmental impact statement from the above address or by calling 904/232-2580, or from our Web site at <http://northflorida.fws.gov>.

**FOR FURTHER INFORMATION CONTACT:** Peter Benjamin (see **ADDRESSES** section), telephone 904/232-2580; or visit our Web site at <http://northflorida.fws.gov>.

**SUPPLEMENTARY INFORMATION:** We published proposed regulations that would authorize for the next five years the incidental, unintentional take of small numbers of Florida manatees (*Trichechus manatus latirostris*) resulting from government activities related to watercraft and watercraft access facilities within three regions of Florida in the **Federal Register** on November 14, 2002 (67 FR 69078).

Under the provisions of the Marine Mammal Protection Act (MMPA), the Secretary of the Department of the Interior may authorize the incidental taking of small numbers of marine mammals in a specified geographic area if the Secretary finds, based on the best scientific evidence available, that the total taking for the authorized period will have no more than a negligible impact on the species or stock. If this finding is made, specific regulations will be established for the activities that describe permissible methods of taking; means of effecting the least practicable adverse impact on the species and its habitat; and requirements for monitoring and reporting. If the Secretary cannot make a finding that the total taking will have a negligible impact on the species or stock, the Secretary must publish the negative finding in the **Federal Register** along with the basis for such determination.

We have defined the specified geographic area for the proposed rule to be the species' range within the State of Florida. Long-term studies suggest four regional populations of manatees in Florida—Northwest, Upper St. Johns River (from Palatka south), Atlantic (including the St. Johns River north of Palatka), and Southwest. Through this rule, we have defined these populations as stocks. We proposed a finding that the total expected takings of Florida manatee resulting from government activities related to watercraft and watercraft access facilities would have a negligible impact in the Upper St. Johns River and Northwest stocks and a negligible impact with the implementation of additional mitigating measures on the Atlantic Stock. For the Southwest Stock, the best available information indicates that these activities would have more than a negligible impact on the Stock and, therefore, we did not propose to authorize incidental take for this Stock (i.e., a negative finding). We also

announced the availability of a draft environmental impact statement for this action.

We announced the date, time and location of the public hearings in Fort Myers, Tampa, Melbourne, Daytona Beach, Palatka and Gainesville, FL with the notice of the proposed rule. We stated that additional public hearings would be held at dates, times, and sites to be determined. This notice provides information regarding the additional hearing in Fort Lauderdale, FL.

Public hearings are designed to gather relevant information that the public may have that we should consider in our rule-making. During the hearing, we will present information about the proposed action. We invite the public to submit information and comments either at the hearings or in writing.

We may limit the time allotted for oral statements, if the number of people who wish to comment necessitates such a limitation. We encourage persons wishing to comment at the hearings to provide a written copy of their statement at the start of the hearing. There is no limit on the length of written comments. Persons may also send written comments to our office in the **ADDRESSES** section at any time during the open comment period, which closes on January 13, 2002. We will give equal consideration to oral and written comments. We are publishing legal notices announcing the date, time, and location of the hearings in newspapers, concurrently with this **Federal Register** notice.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Chuck Underwood of the North Florida Field Office (see **ADDRESSES** section) as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing.

#### Author

The primary author of this notice is Pete Benjamin (see **ADDRESSES** section).

#### Authority

The authority for this action is the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407).

Dated: November 25, 2002.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 02-30374 Filed 11-27-02; 8:45 am]

**BILLING CODE 4310-55-P**

# Notices

Federal Register

Vol. 67, No. 230

Friday, November 29, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 02-087-1]

#### Availability of an Environmental Assessment

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the control of Pacific mealybug, *Planococcus minor* (Homoptera: Pseudococcidae). The environmental assessment considers the effects of, and alternatives to, the release of nonindigenous organisms into the environment for use as biological control agents to reduce the severity of Pacific mealybug infestations. We are making this environmental assessment available to the public for review and comment.

**DATES:** We will consider all comments that we receive on or before December 30, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-087-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 02-087-1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 02-087-1" on the subject line.

You may read any comments that we receive on the environmental assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Dale Meyerdirk, Agriculturalist, National Biological Control Institute, PPQ, APHIS, 4700 River Road Unit 135, Riverdale, MD 20737-1236; (301) 734-5220.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), is proposing to release nonindigenous species of parasitic wasps and predators in the continental United States and U.S. territories in the Caribbean to control Pacific mealybug, *Planococcus minor* (Homoptera: Pseudococcidae). The following organisms are being considered for release:

- Encyrtid wasps in the genera *Aenasius*, *Anagyrus*, *Gyranusoidea*, *Leptomastix*, and *Pseudaphycus*;
- A pteromalid wasp, *Patiana coccorum*;
- Platygastriid wasps in the genus *Allotropa*;
- A lycaenid, *Spalgis epius*; and
- A coccinellid, *Cryptolaemus affinis*.

Pacific mealybug is a foreign plant pest that attacks over 240 different species of plants, including both agricultural and ornamental plants. It has invaded areas in American Samoa, the U.S. Virgin Islands, and Mexico. This pest could enter the eastern United States from Mexico or from the Caribbean or enter California from Mexico or from the Pacific. The purpose of the proposed release of biological

control agents is to suppress Pacific mealybug infestations.

The preferred alternative, biological control, is proposed because it is the best alternative to resolve the problems imposed by Pacific mealybug on various hosts. APHIS will import these biological control agents from different locations around the world into USDA-certified insect quarantine facilities, where species identifications will be confirmed by USDA and State taxonomists and undesirable organisms such as hyperparasites will be screened out and properly eliminated. Laboratory colonies reared on Pacific mealybug will be established by USDA, State, and U.S. territory cooperators in areas invaded by the Pacific mealybug.

It is expected that the biological control agents will be introduced into areas where the Pacific mealybug occurs and reproduce naturally without further human intervention, and that the stingless wasps and predators will become established throughout the eventual geographical distribution of Pacific mealybug in the United States. The biological characteristics of the organisms under consideration preclude any possibility of harmful effects on human health.

APHIS' review and analysis of the potential environmental impacts associated with releasing nonindigenous organisms into the environment are documented in detail in an environmental assessment entitled "Control of Pacific Mealybug, *Planococcus minor* (Homoptera: Pseudococcidae)" (July 11, 2002). We are making this environmental assessment available to the public for review and comment. We will consider all comments that we receive by the date listed under the heading **DATES** at the beginning of this notice.

You may request copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies. The environmental assessment is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice).

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act

of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 22nd day of November 2002.

**Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02–30224 Filed 11–27–02; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Agency Information Collection

#### Activities: Proposed Collection; Comment Request—Child Nutrition Labeling Program

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Food and Nutrition Service to request Office of Management and Budget review of information collection activities related to the Child Nutrition Labeling Program.

**DATES:** Comments on this notice must be received by January 28, 2003 to be assured of consideration.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval and will become a matter of public record. Comments may be sent to: William Wagoner, Team Leader, Technical Assistance Section, Nutrition Promotion

and Training Branch, Child Nutrition Division, room 632, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instruments and instruction should be directed to William Wagoner at (703) 305–2609.

#### SUPPLEMENTARY INFORMATION:

*Title:* Child Nutrition Labeling Program.

*OMB Number:* 0584–0320.

*Expiration Date:* 2/20/03.

*Type of Request:* Revision of currently approved collection.

*Abstract:* The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program to aid schools and institutions participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP) in determining the contribution a commercial product makes toward the food-based meal pattern requirements of these programs. (See Appendix C to 7 CFR Parts 210, 220, 225 and 226 for more information on this program). There is no Federal requirement that commercial products must have a CN label statement.

To participate in the Child Nutrition Labeling Program, industry submits product labels and formulations to the Food and Nutrition Service (FNS) that are in conformance with the Food Safety and Inspection Service (FSIS) label approval program for meat and poultry, or United States Department of Commerce (USDC) label approval program for seafood products. FNS reviews a manufacturer's product formulation to determine the contribution a serving of the product makes toward the food-based meal pattern requirements. The application form submitted to FNS is the same application that companies submit to FSIS or USDC to receive label approval. A CN label application is also reviewed by FNS for accuracy.

*Estimate of Burden:* Based on our most recent interviews with manufacturers it is estimated that it takes a manufacturer forty-five minutes to complete the required calculations and to formulate the CN label application.

*Respondents:* Participation in the CN labeling Program is voluntary. Only manufacturers who wish to place CN labels on their products must comply with program requirements. Last year 946 establishments sent in 2584 CN label applications.

*Estimated Number of Respondents:* 946.

*Estimated Number of Responses Per Respondent:* 2.7.

*Estimated Total Annual Responses:* 2554.

*Estimated Time Per Response:* 0.75 Hours.

*Estimated Total Annual Burden:* 1915 Hours.

Dated: November 21, 2002.

**Roberto Salazar,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 02–30192 Filed 11–27–02; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Scott Peak Project Area Environmental Impact Statement

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) on a proposal to harvest timber, to enhance recreational opportunities, to perform watershed restoration work, and to develop a road management plan for the Scott Peak Project Area on northeastern Kupreanof Island, on the Petersburg Ranger District, Tongass National Forest. The proposed action for timber harvest provides for multiple timber sale opportunities resulting in the production of approximately 16 million board feet (mmbf) of timber from approximately 680 acres of forested land. Since this project is within the Mitkof/Kupreanof Biogeographic province, all timber harvest silvicultural prescriptions will meet marten standards and guidelines as described in the Tongass Land and Resource Management Plan (Forest Plan). Approximately 3 miles of temporary road would be necessary for timber harvest; no classified road would be constructed. A range of alternatives responsive to significant issues is being developed and will include a no-action alternative. Currently the preliminary action alternatives propose timber harvest ranging from 3mmbf to 16 mmbf, with 0 to 3 miles of temporary road construction. The Record of Decision will disclose whether and where the Forest Supervisor has decided to provide timber harvest units, roads, associated timber harvesting facilities, dispersed recreation sites, and watershed improvements.

**DATES:** A public mailing that outlines the project timeline and public involvement opportunities is planned for distribution in Fall 2002. Individuals who want to receive this mailing should contact us within 30 days of the publication of this NOI. To be most useful, comments concerning the scope of this project should be received by December 23, 2002. The draft Environmental Impact Statement is projected to be filed with the Environmental Protection Agency (EPA) in the winter of 2003 and will begin a 45-day public comment period. The Final Environmental Impact Statement and Record of Decision are anticipated to be published in the summer of 2003.

**ADDRESSES:** Please send written comments to the Petersburg Ranger District, Tongass National Forest, Attn: Scott Peak Project Area EIS, PO Box 1328, Petersburg, AK 99833. The FAX number is (907) 772-3871 or Cynthia Sever, Interdisciplinary Team Leader, Petersburg Ranger District, PO Box 1328, Petersburg, AK 99833; telephone (907) 772-3871.

**SUPPLEMENTARY INFORMATION:**

**Background:** The 24,110 acre Scott Peak Project Area is located within value Comparison Unit 444 on Kupreanof Island, Alaska on the Petersburg Ranger District of the Tongass National Forest. Portions of two Inventoried Roadless Areas, Missionary #212 and Five Mile #213, as identified by the Forest plan, are located within the project area. None of the proposed timber wharves units or temporary roads are within these or any other roadless area as defined by the U.S. District Court (District of Alaska in *Sierra Club v. Rey* (J00-0009 CV (JKS))). The project area includes one small old-growth habitat reserve as designated in the Forest Plan. A Forest plan amendment would be required if a decision is made to modify the old-growth habitat reserve boundary associated with this project.

The purpose and need for the Scott Peak Project is: (1) To implement the direction contained in the 1997 Tongass Land Management Plan and the 1997 ROD, including goals, objectives, management prescriptions, and standards and guidelines; (2) to maintain wood production from suitable timber lands, providing a continuous supply of wood to meet society's needs; (3) to help provide a stable supply of timber from the Tongass National Forest which meets existing and potential market demand and is consistent with sound multiple use and sustained yield objectives; and (4) to help meet the desired future condition of the landscape as described by the 1997

Tongass Land and Resource Management Plan.

**Public Participation:** Public participation has been an integral component of the study process and will continue to be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Tribal Governments, Federal, State, and local agencies, individuals and organizations that may be interested in, or affected by, the proposed activities. Written scoping comments have been solicited through an informal scoping package that was sent to the project mailing list and was available at open houses in Petersburg, AK and Kate, AK. The scoping process includes: (1) Identification of potential issues; (2) identification of issues to be analyzed in depth; and, (3) elimination of insignificant issues or those which have been covered by a previous environmental review. Tentative issues identified for analysis in the EIS include the potential effects of the project on, and the relationship of the project to, the old-growth habitat reserve system and timber sale economics.

Based on results of scoping and the resource capabilities within the project area, alternatives including a "no-action" alternative will be developed for the Draft Environmental Impact Statement. Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), will be provided, if necessary, during the comment period on the Draft Environmental Impact Statement.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553, (1978). Environmental objections that could have been raised at the Draft Environmental Impact Statement stage may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service

at a time when it can meaningfully consider them and respond to them in the Final Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft Environmental Impact Statement. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received in response to this solicitation, including names and address of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days.

**Permits:** Permits required for implementation include the following:

1. U.S. Army Corps of Engineers
  - Approval of discharge of dredged or fill material into the water of the United States under Section 404 of the Clean Water Act;
  - Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899;
2. Environmental Protection Agency
  - National Pollutant Discharge Elimination System (402) Permit;

—Review Spill Prevention Control and Countermeasure Plan;

3. State of Alaska, Department of Natural Resources

—Tideland Permit and Lease or Easement;

4. State of Alaska, Department of Environmental Conservation

—Solid Waste Disposal Permit;

—Certification of Compliance with Alaska Water Quality Standards (401 Certification) Chapter 20.

*Responsible Official:* Thomas Puchlerz, Forest Supervisor, Tongass National Forest, Federal Building, Ketchikan, AL 99901, is the responsible official. The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and state the rationale in the Record of Decision.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

Dated: November 19, 2002.

**Thomas Puchlerz,**

*Forest Supervisor.*

[FR Doc. 02-30169 Filed 11-27-02; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Opal Creek Scenic Recreation Area (SRA) Advisory Council

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Opal Creek Scenic Recreation Area Advisory Council is scheduled to meet on Saturday, December 7, 2002 for a field visit to the Opal Creek Scenic Recreation Area. The objectives of the field visit are to:

- Orient council members to different areas within the high and low intensity zones;
- Discuss monitoring planning and identify key resource indicators that need to be assessed for the monitoring plan;
- Provide an overview of transportation system maintenance levels, current condition, reasons for access, and management options to the lay groundwork for developing the transportation plan as required by law;
- Discuss law enforcement issues and implementing no shooting corridors.

The tour is scheduled to begin at 8:30 a.m., and will conclude at approximately 3:30 p.m. The tour will

begin at the Oregon Department of Forestry Office at 22965 North Fork Road in Mehama, Oregon and make several stops throughout the Opal Creek SRA. The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104-208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for SRA, and consults on a periodic and regular basis on the management of the area.

The public comment period will begin at 3:15 p.m. when the council reconvenes at the Oregon Department of Forestry Office. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the December 7 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below. The public is welcome to attend the tour, however individuals must provide their own transportation throughout the tour and bring a lunch. Four-wheel drive is recommended.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding this meeting, contact Designated Federal Official Gina Owens; Willamette National Forest, Detroit Ranger District, HC 73 Box, 320, Mill City, OR 97360; (503) 854-3366.

Dated: November 22, 2002.

**Dallas J. Emch,**

*Forest Supervisor.*

*Disclaimer:* This meeting notice is being published less than 15 days prior to the meeting since this is a reschedule of the field tour that was cancelled on November 17, 2002 (**Federal Register** Notice Vol. 67, No. 216, November 7, 2002, pages 67819 for lack of confirmed attendance. The field tour is being rescheduled in a timely manner to preempt winter conditions closing the area, and so that planning can be accomplished within the timeframes that are set. This late notice is

authorized under 41 CFR 1016.1015(b)(2).

[FR Doc. 02-30217 Filed 11-27-02; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Madera County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Resource Advisory Committee meeting.

**SUMMARY:** Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92-463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Sierra National Forest's Resource Advisory Committee for Madera County will meet on Monday, December 16, 2002. The Madera Resource Advisory Committee will meet at the U.S.D.A. Forest Service Office, 57003 Road 225, North Fork, CA. The purpose of the meeting is update RAC committee outreach and RAC Proposal presentations.

**DATES:** The Madera Resource Advisory Committee meeting will be held Monday, December 16, 2002. The meeting will be held from 7 p.m. to 9 p.m.

**ADDRESSES:** The Madera County RAC meeting will be held at the U.S.D.A. Forest Service Office, 57003 Road 225, North Fork, CA.

**FOR FURTHER INFORMATION CONTACT:** Dave Martin, U.S.D.A., Sierra National Forest, 57003 Road 225, North Fork, CA 93643 (559) 877-2218 ext. 3100; e-mail: [dmartin05@fs.fed.us](mailto:dmartin05@fs.fed.us).

**SUPPLEMENTARY INFORMATION:** Agenda items to be covered include: (1) Update RAC committee outreach, and (2) RAC Proposal presentations. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: November 21, 2002.

**David W. Martin,**

*District Ranger.*

[FR Doc. 02-30216 Filed 11-27-02; 8:45 am]

**BILLING CODE 3410-11-M**



## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed collection; comment request.

**Title:** Nonprofit Agency Responsibilities, 3037-0005.  
**SUMMARY:** The Committee for Purchase From People Who Are Blind or Severely Disabled has submitted an Information Collection Request to the Office of Management and Budget (OMB) for review and clearance under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). This notice solicits comments on requirement relating to the record keeping requirements of nonprofit agencies serving people who are blind or severely disabled.

**DATES:** Submit comments on or before December 30, 2002.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen F. Lee, Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or be electronically e-mailed to [Karen\\_F.Lee@omb.eop.gov](mailto:Karen_F.Lee@omb.eop.gov). Requests for copies of documents pertaining to the collection should be addressed to Committee for Purchase From People Who Are Blind or Severely Disabled, Attention: Janet Yandik, Information Management Specialist, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, VA 22202-3259 or e-mailed to [jyandik@jwod.gov](mailto:jyandik@jwod.gov).

**SUPPLEMENTARY INFORMATION:** The Committee imposes certain requirements on nonprofit agencies that participate in the Javits-Wagner-O'Day (JWOD) Program. The requirements being proposed are recordkeeping for specific product families and services sold under the JWOD Act. This is a change in current requirements that only require records be kept and reported in the aggregate, rather than by specific JWOD product family or service. If approved, recordkeeping shall reflect dollar sales of each product and service sold under the authority of JWOD Act, direct labor hours performed by all workers on each product and service sold under the JWOD Act, and files which document the disability and competitive employability of each

worker counted toward the nonprofit agencies' ratio of disabled direct labor. Such records and files are required to ensure the effective administration of the JWOD Program and to ensure that nonprofit agencies seeking to participate in the Committee's program meet the requirements of 41 U.S.C. 46-48(c).

**G. John Heyer,**  
*General Counsel.*

[FR Doc. 02-30310 Filed 11-27-02; 8:45 am]

**BILLING CODE 6353-01-P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase from People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from procurement list.

**SUMMARY:** The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a product and a service previously furnished by such agencies.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** December 29, 2002.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other

than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the products proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

### Products

*Product/NSN:* Marker, Dry Erase, Premium, 7520-00-NIB-1428.

*NPA:* Dallas Lighthouse for the Blind, Inc., Dallas, Texas.

*Contract Activity:* Office Supplies & Paper Products Acquisition Center, New York, New York.

*Product/NSN:* Rough and Ready Mop 7920-00-NIB-0409 (Medium) 7920-00-NIB-0410 (Large)

*NPA:* New York City Industries for the Blind, Brooklyn, New York

*Contract Activity:* Office Supplies & Paper Products Acquisition Center, New York, New York

### Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and service to the Government.

2. If approved, the action will result in authorizing small entities to furnish the product and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the product and service proposed for deletion from the Procurement List.

The following product and service are proposed for deletion from the Procurement List:

### Product

*Product/NSN:* Aerosol Paint, Lacquer, 8010-00-958-8147



NPA: The Lighthouse for the Blind, Inc., St. Louis, Missouri  
*Contract Activity:* GSA, Hardware & Appliances Center, Kansas City, Missouri

#### Service

*Service Type/Location:* Base Supply Center, New Orleans Naval Support Activity, New Orleans, Louisiana  
 NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, North Carolina  
*Contract Activity:* Naval Support Activity, New Orleans, Louisiana.

**G. John Heyer,**

*General Counsel.*

[FR Doc. 02-30308 Filed 11-27-02; 8:45 am]

BILLING CODE 6353-01-P

### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

#### Procurement List; Additions

**AGENCY:** Committee for Purchase from People Who Are Blind or Severely Disabled.

**ACTION:** Additions to procurement list.

**SUMMARY:** This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**EFFECTIVE DATE:** December 29, 2002.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603-7740.

**SUPPLEMENTARY INFORMATION:** On September 6, and October 4, 2002, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (67 FR 56981, and 62224) of proposed additions to the Procurement List.

*The following comments pertain to Pest Control, Naval Base Ventura County, California.*

Comments were received from the current contractor for this pest control service. The contractor indicated that loss of the contract would have a severe adverse impact on the company. The contractor also questioned whether pest control is suitable work for people with severe disabilities, and whether the designated nonprofit agency would be able to meet health and safety requirements for proper performance of the service.

In making its claim of severe adverse impact, the contractor provided figures

showing that this contract represents a sizeable minority of the total sales of the company branch office which performs this work. The Committee, however, looks to total sales of the entire company when assessing the severity of impact on a contractor. The percentage of the company's total sales which this pest control service represents is far below the level which the Committee normally considers to constitute severe adverse impact on a contractor.

The contractor noted that there are numerous Federal and State rules applicable to this pest control service, and that the pests at the service location require a number of specialized tasks to control. The contractor stated that all of these tasks are currently being performed by licensed pest control technicians. The contractor also noted that nonprofit agencies performing grounds maintenance services under the Committee's program normally subcontract pest control to licensed and certified pest control firms.

Unlike the nonprofit agencies performing grounds maintenance services which the contractor noted, the nonprofit agency designated to perform this service has done pest control in its grounds maintenance services. This nonprofit agency will be licensed and certified to perform the pest control work needed in the pest control service now being added to the Procurement List. The nonprofit agency will meet all applicable certified staffing and other State and Federal requirements for pest control when it provides this service, as well as the requirements set forth in the Statement of Work for the pest control contract. The nonprofit agency already employs people with severe disabilities who are licensed to perform pest control work. Accordingly, the Committee does not agree with the contractor's contention that pest control work is not suitable for people with severe disabilities.

*The following material pertains to all of the items being added to the Procurement List.*

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are added to the Procurement List:

#### Services

*Service Type/Location:* Facility Services, Retirement Operations Center, Boyers, Pennsylvania

NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, Pennsylvania.

*Contract Activity:* Office of Personnel Management, Washington, DC.

*Service Type/Location:* Grounds and Landscape Maintenance Services, Fort Point Reservation Area, Galveston, Texas, San Jacinto Disposal Area, Galveston, TX.

NPA: Training, Rehabilitation & Development Institute, Inc., San Antonio, Texas.

*Contract Activity:* U.S. Army Engineer District, Galveston, Texas.

*Service Type/Location:* Pest Control, Naval Base Ventura County, Ventura, California.

NPA: PRIDE Industries, Roseville, California.

*Contract Activity:* ROICC/Naval Base Ventura County, Point Mugu, California.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

**G. John Heyer,**

*General Counsel.*

[FR Doc. 02-30309 Filed 11-27-02; 8:45 am]

BILLING CODE 6353-01-P

## DEPARTMENT OF COMMERCE

### Economic Development Administration

#### Submission for OMB Review; Comment Request; Requirements for Approved Construction Investments

**ACTION:** Extension of a currently approved collection, comment request.

The Department of Commerce (DoC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for

collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* Economic Development Administration (EDA).

*Title:* Requirements for Approved Construction Investments.

*Agency Form Number:* Not Applicable.

*OMB Approval Number:* 0610-0096.

*Type of Request:* Extension of a currently approved collection.

*Burden:* 23,200 hours.

*Average Hours Per Response:* 20 burden hours.

*Number of Respondents:*

Approximately 1,160 respondents.

*Needs and Uses:* The Economic Development Administration (EDA) provides investments that will help our partners across the nation (states, regions and communities) create wealth and minimize poverty by promoting a favorable business environment to attract private capital investment and higher skill, higher wage jobs through world-class capacity building, infrastructure, business assistance, research grants and strategic initiatives.

The *Requirements for Approved Construction Investments* is needed to monitor construction projects for compliance with Federal and other program and administrative requirements as set forth in EDA's

authorizing legislation (Pub. L. 105-393) and EDA's implementing regulations at 13 CFR parts 305 and 308, and the Common Rule as set forth at 15 CFR parts 14 and 24. The information collected from grant recipients is used by EDA to safeguard the public's interest in the grant assets, and to promote the effective use of grant funds accomplishing the purpose for which they were granted. Additionally, the information is used to monitor project progress in order to detect delays and to offer assistance to resolve delays when appropriate. EDA uses information gathered to analyze and report on program performance for over 600 projects which at any one time are still in design or construction.

*Affected Public:* State, local or Tribal Government and not-for profit organizations.

*Frequency:* On Occasion, Quarterly and Semiannually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* David Rostker, (202) 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, U.S. Department of Commerce, Room 6625, 14th and Constitution Avenue, NW.,

Washington, DC 20230, or via Internet at [dhynnek@doc.gov](mailto:dhynnek@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: November 25, 2002.

**Madeleine Clayton,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 02-30299 Filed 11-27-02; 8:45 am]

**BILLING CODE 3510-34-P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

#### Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below:

#### LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD OCTOBER 19, 2002—NOVEMBER 22, 2002

Firm name	Address	Date petition accepted	Product
Mutual Tool & Die, Inc .....	725 Lilac Avenue, Dayton, OH 45427 ....	10/31/02	Jigs, fixtures and tools for metal working.
Wenger Manufacturing, Inc .....	714 Main Street, Sebetha, KS 66534 ....	11/06/02	Extrusion parts and machinery for the food products industry.
Pharr Brand Name Apparel, LLC .....	1300 Maco Drive, Pharr, TX 78577 .....	11/06/02	Leather Jackets.
Warnke Tool Industries, Inc .....	3287 Metamora Road, Oxford, MI 48371	11/14/02	Jigs, fixtures and tools for metal working.
Max Hats Ltd., dba West Penn Hat & Cap Corporation.	100 Treadway Lane, Creighton, PA 15030.	11/18/02	Hats and caps.
C W Industries .....	130 James Way, Southampton, PA 18966.	11/20/02	Electrical connectors used in the appliance industry.
Lima Plastics, Inc .....	1130 W. Elizabeth Ave., Linden, NJ 07036.	11/20/02	Lipstick cases, small talc containers and powder boxes, nail polish caps, and misc. cosmetic containers, boxes, and cases.
Modern Alpha Plastics, Inc .....	1026 South Powell Road, Independence, MO 64056.	11/20/02	Plastic fittings for the automotive industry.
Burgess Manufacturing, Inc .....	3443 North Topeka Street, Wichita, KS 67219.	11/20/02	Wooden boxes, cases and crates.
Great Western Nav. E. & L. Company ....	P.O. Box 74, Chignik, AK 99564 .....	11/20/02	Salmon.
Lady Launi, Inc .....	2120 41st Street, Anacortes, WA 98221	11/20/02	Salmon.
All In One, Inc .....	P.O. Box 22 Hilltop Dr., Chignik, AK 99564.	11/20/02	Salmon.
Alpha Products, Inc .....	5570 West 70th Place, Chicago, IL 60638.	11/22/02	Stamped metal loudspeaker components.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate

investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or

partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: November 22, 2002.

**Anthony J. Meyer,**

*Coordinator, Trade Adjustment and Technical Assistance.*

[FR Doc. 02-30215 Filed 11-27-02; 8:45 am]

BILLING CODE 3510-24-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-791-815]

#### Notice of Final Determination of Sales at Less Than Fair Value: Ferrovanadium from the Republic of South Africa

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Final Determination of Sales at Less Than Fair Value.

**EFFECTIVE DATE:** November 29, 2002.

**FOR FURTHER INFORMATION CONTACT:** Crystal Crittenden or Mark Manning at (202) 482-0989 or (202) 482-5253, respectively; AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (April 2002).

#### Final Determination

We determine that ferrovanadium from the Republic of South Africa (South Africa) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

#### Background

On June 25, 2002, the Department preliminarily determined that imports of ferrovanadium from South Africa are being, or are likely to be, sold in the United States at LTFV, as provided in section 733 of the Act. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Ferrovanadium from the Republic of South Africa*, 67 FR 45083 (July 8, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

On July 9, 2002, one of the respondents, Xstrata South Africa (Proprietary) Limited (Xstrata), timely filed an allegation that the Department made several ministerial errors in its preliminary determination. In addition, during July 2002, Xstrata and Highveld Steel and Vanadium Corporation, Ltd. (Highveld), the other respondent in this investigation, separately submitted letters refusing to allow the Department to verify their responses. On September 12, 2002, the Department found that the preliminary determination contained certain ministerial errors. *See Notice of Amended Preliminary Determination of Sales at Less Than Fair Value; Ferrovanadium from the Republic of South Africa*, 67 FR 59050 (September 19, 2002). The petitioners<sup>1</sup> filed their case brief on September 26, 2002. The respondents did not file case or rebuttal briefs.

#### Scope of The Investigation

The scope of this investigation covers all ferrovanadium regardless of grade, chemistry, form, shape, or size. Ferrovanadium is an alloy of iron and vanadium that is used chiefly as an additive in the manufacture of steel. The merchandise is commercially and scientifically identified as vanadium. It specifically excludes vanadium additives other than ferrovanadium, such as nitride vanadium, vanadium-

aluminum master alloys, vanadium chemicals, vanadium oxides, vanadium waste and scrap, and vanadium-bearing raw materials such as slag, boiler residues and fly ash. Merchandise under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers 2850.00.2000, 8112.40.3000, and 8112.40.6000 are specifically excluded. Ferrovanadium is classified under HTSUS item number 7202.92.00. Although the HTSUS item number is provided for convenience and Customs purposes, the Department's written description of the scope of this proceeding remains dispositive.

#### Period of Investigation (POI)

The POI is October 1, 2000, through September 30, 2001.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Bernard T. Carreau to Faryar Shirzad, Issues and Decision Memorandum for the Antidumping Duty Investigation of Ferrovanadium from the Republic of South Africa, (*Decision Memorandum*), dated concurrently with this notice, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this proceeding and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (CRU), room B-099, of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Use of Total Adverse Facts Available

We have assigned Highveld and Xstrata a margin based upon total adverse facts available because they refused to allow the Department to verify their responses. We are using as total adverse facts available the initiation rate of 116.00 percent, which is based on information contained in the petition. For a discussion of our application of total adverse facts available, see the *Decision Memorandum* which is on file in the CRU. In addition, see the Memorandum from Mark Manning to Holly A. Kuga regarding corroboration of secondary information used as total adverse facts available, dated concurrently with this notice.

<sup>1</sup> The petitioners in this case are The Ferroalloys Association Vanadium Committee (TFA Vanadium Committee) and its members: Bear Metallurgical Company, Shieldalloy Metallurgical Corporation, Gulf Chemical & Metallurgical Corporation, U.S. Vanadium Corporation, and CS Metals of Louisiana LLC.

### Changes Since the Preliminary Determination

The Department was unable to verify the information placed on the record of this investigation by the respondents because they did not allow the Department to conduct sales and cost verifications. Therefore, rather than using the reported information which we could not verify to calculate margins for the respondents, as was done in the preliminary determination, we are basing the dumping margin for Highveld and Xstrata upon total adverse facts available.

### All Others Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated "all others" rate for exporters and producers not individually investigated. This provision contemplates that the Department may weight-average margins other than the zero, *de minimis*, or facts available margins to establish the "all others" rate. When the data do not permit weight-averaging such other margins, the Statement of Administrative Action (SAA) provides that the Department may use any other reasonable methods. See the SAA accompanying the URAA, H.R. Rep. No. 103-316 at 873 (1994). Because the petition contained only one estimated dumping margin, there are no additional estimated margins available with which to create the "all others" rate. Therefore, we are using the initiation margin of 116 percent as the "all others" rate.

### Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of ferrovanadium from South Africa that are entered, or withdrawn from warehouse, for consumption on or after July 8, 2002 (the date of publication of the *Preliminary Determination* in the *Federal Register*). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

### Final Determination of Investigation

We determine that the following weighted-average percentage margins exist for the period October 1, 2000, through September 30, 2001:

Manufacturer/exporter	Margin (percent)
Highveld Steel and ..... Vanadium Corporation, Ltd. ....	116.00
Xstrata South Africa (Proprietary) Limited ...	116.00
All Others .....	116.00

### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: November 20, 2002.

**Bernard Carreau,**

*Acting Assistant Secretary for Import Administration.*

### Appendix Issues in Decision Memorandum

1. Application of Total Adverse Facts Available new file.

[FR Doc. 02-30305 Filed 11-27-02; 8:45 am]

BILLING CODE 3510-DS-S

### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-570-873]

#### Notice of Final Determination of Sales at Less Than Fair Value: Ferrovanadium from the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Final Determination of Sales at Less Than Fair Value.

**EFFECTIVE DATE:** November 29, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Karine Gziryan or Howard Smith, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-4081, and (202) 482-5193, respectively.

#### SUPPLEMENTARY INFORMATION:

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations refer to the regulations codified at 19 CFR part 351 (April 2002).

#### Final Determination

We determine that ferrovanadium from the People's Republic of China (PRC) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

#### Background

On July 8, 2002, the Department of Commerce (the Department) published the preliminary determination of sales at less-than-fair-value in the antidumping duty investigation of ferrovanadium from the PRC. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Ferrovanadium from the People's Republic of China*, 67 FR 45088 (July 8, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

On July 17, 2002, the respondent, Pangang Group International Economic and Trading Corporation (Pangang), reported for the first time that one of its affiliates for which it had not reported factors of production information had produced ferrovanadium during the period of investigation (POI). However, in its July 17 submission, Pangang noted that none of the ferrovanadium produced by this company was sold or exported to the United States during the POI. In response to Pangang's July 17 submission, on July 19, 2002, the Department issued a memorandum to the file noting that we require Pangang to report factors of production only from the factory or factories which produced ferrovanadium that was sold to customers in the United States during the POI.

During July 2002, the Department conducted a verification of Pangang's sales and factors of production information. See Memorandum from Timothy P. Finn and Karine Gziryan to the File, "Verification of Sales and Factors of Production Information Reported By Pangang Group International Economic & Trading Corporation," dated September 24, 2002. On July 15, 2002, Pangang filed a request for a public hearing in this investigation. However, no hearing was held in this investigation because Pangang withdrew its request for a hearing on September 30, 2002. Both the petitioners and Pangang filed surrogate value information and data on August 26, 2002.<sup>1</sup> On September 5, 2002, Pangang filed information purportedly rebutting petitioners' August 26 factor value submission. On September 24, 2002, the Department rejected Pangang's September 5 rebuttal submission as untimely filed factual information.

Parties filed case and rebuttal briefs on October 1 and October 7, 2002, respectively. Pursuant to the Department's instructions, the petitioners removed certain untimely filed factual information from their rebuttal brief and resubmitted it on November 12, 2002.

### Scope of the Investigation

The scope of this investigation covers all ferrovanadium regardless of grade, chemistry, form, shape, or size. Ferrovanadium is an alloy of iron and vanadium that is used chiefly as an additive in the manufacture of steel. The

merchandise is commercially and scientifically identified as vanadium. It specifically excludes vanadium additives other than ferrovanadium, such as nitride vanadium, vanadium-aluminum master alloys, vanadium chemicals, vanadium oxides, vanadium waste and scrap, and vanadium-bearing raw materials such as slag, boiler residues and fly ash. Merchandise under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers 2850.00.2000, 8112.40.3000, and 8112.40.6000 are specifically excluded. Ferrovanadium is classified under HTSUS item number 7202.92.00. Although the HTSUS item number is provided for convenience and Customs purposes, the Department's written description of the scope of this investigation remains dispositive.

### Period of Investigation

The POI is April 1, 2001, through September 30, 2001.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Holly A. Kuga to Bernard T. Carreau, "Issues and Decision Memorandum for the Antidumping Duty Investigation of Ferrovanadium from the People's Republic of China," dated concurrently with this notice (*Decision Memorandum*), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit (CRU), room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

### Non-Market Economy

The Department has treated the PRC as a non-market economy (NME) country in all its past antidumping investigations. See *Notice of Final Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 66 FR 50608 (October 4, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 58115 (November 20, 2001). A designation as an NME country remains in effect until it is revoked by the

Department. See section 771(18)(C) of the Act. The respondent in this investigation has not requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as a NME in this investigation. For further details, see the *Preliminary Determination*.

### Separate Rates

In our Preliminary Determination, we found that the only responding company, Pangang, met the criteria for the application of separate, company-specific antidumping duty rates. We have not received any other information since the preliminary determination which would warrant reconsideration of our separate rates determination with respect to this company. For a complete discussion of the Department's determination that the respondent is entitled to a separate rate, see the *Preliminary Determination*.

### The PRC-Wide Rate

In the *Preliminary Determination*, we found that the use of adverse facts available for the PRC-wide rate was appropriate for other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from Pangang.

When analyzing the petition for purposes of the initiation, the Department reviewed all of the data upon which the petitioners relied in calculating the estimated dumping margin and determined that the margin in the petition was appropriately calculated and supported by adequate evidence in accordance with the statutory requirements for initiation. In order to corroborate the petition margin for purposes of using it as adverse facts available, we examined the price and cost information provided in the petition in the context of our preliminary determination. For further details, see Memorandum from Mark Manning to Holly A. Kuga, "Corroboration of Secondary Information," dated June 25, 2002. We received no comments on this decision and continue to find in this final determination that the rate contained in the petition, as recalculated, has probative value. Since we have received no comments regarding our decision to apply, as adverse facts available, the PRC-wide rate to all entries of the merchandise under investigation except for entries from Pangang, we have

<sup>1</sup> The petitioners in this case are the Ferroalloys Association Vanadium Committee (TFA Vanadium Committee) and its members: Bear Metallurgical Company, Shieldalloy Metallurgical Corporation, Gulf Chemical & Metallurgical Corporation, U.S. Vanadium Corporation, and CS Metals of Louisiana LLC.

continued to apply this rate in the final determination. For further discussion, see *Preliminary Determination*.

Since the preliminary determination, we have obtained new information regarding several surrogate values. In order to take into account the more recent information, we recalculated the petition margin using, where possible, revised surrogate values to value the petitioners' consumption rates. As a result of this recalculation, the PRC-wide rate is, for the final determination, 66.71 percent. See Memorandum from Mark Manning to the File, "Corroboration of Secondary Information," dated November 20, 2002.

#### Surrogate Country

For purposes of the final determination, we continue to find that South Africa remains the appropriate surrogate country for the PRC. We received comments from the petitioners in their brief, which are discussed in the accompanying *Decision Memorandum* at Comment 6. For further discussion and analysis regarding the surrogate country selection for the PRC, see the *Preliminary Determination*.

#### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the Preliminary Determination as a result of verification, see the *Changes Since the Preliminary Determination* section below.

#### Changes Since the Preliminary Determination

Based on our findings at verification and on our analysis of the comments received, we have made adjustments to the calculation methodologies used in the preliminary determination. These adjustments are listed below and discussed in detail in the (1) Decision Memorandum, (2) Memorandum from the Team to the File, "Final Factors of Production Valuation Memorandum," dated November 20, 2002, and (3) Memorandum from the Team to the File, "Calculation Memorandum for the Final Determination," dated November 20, 2002.

1. We accepted all changes identified by Pangang in its July 19, 2002, submission and all minor corrections presented at verification. For our final calculations, we used the updated consumption rates and factors of production that

incorporate the changes identified in the documents listed above, submitted by Pangang on August 28, 2002.

2. We reviewed the import data used in the preliminary determination to calculate surrogate values and removed from our calculations (1) data from NME countries, (2) data from countries with export subsidies (*i.e.*, Indonesia, South Korea, and Thailand), (3) data with aberrational per-unit values, and (4) data attributed to South Africa from the South African import statistics.

Furthermore, where possible, we based our surrogate values on data from the months covering the POI.

3. We included in our calculation of normal value certain auxiliary materials found during verification.

4. We calculated the surrogate value for vanadium slag from South African export data contemporaneous with the POI obtained from the World Trade Atlas (WTA), rather than the South African import data reported by the United Nations which was used for the preliminary determination.

5. We recalculated the per-unit amount of vanadium slag consumed in the production process based on the actual chemical content of the material, rather than the theoretical content as was done in the preliminary determination.

6. We removed the "soda" factor from the production of FeV50 and FeV80 because we verified that soda was actually consumed in the production of the intermediate products V2O3 and V2O5.

7. We renamed the "lime" factor consumed in the production of V2O3 and V2O5 to "soda" and valued this factor with a surrogate value derived from South African import statistics contemporaneous with the POI obtained from the WTA for the HTSUS category for disodium carbonate.

8. We granted Pangang an offset for its sales of V2O3 slag and V2O5 slag and valued these by-products with the same surrogate value used to value vanadium slag. We adjusted the surrogate value to account for the difference in the vanadium content.

9. We granted Pangang an offset for its sales of aluminum oxide slag and valued this by-product with the same surrogate value used to value vanadium slag. We adjusted the surrogate value to account for the difference in the vanadium content.

10. We valued iron drums with South African import statistics contemporaneous with the POI obtained from the WTA, rather than with South African import data for 2000 reported by the United Nations, which was used in the preliminary determination.

11. We calculated separate surrogate values for wooden boxes and wooden pallets from the South African import statistics contemporaneous with the POI obtained from the WTA. We identified separate HTSUS categories for wooden boxes and wooden pallets rather than relying solely on the HTSUS category for wooden pallets as the surrogate value for both factors as was done in the preliminary determination.

12. We revised our calculation of the surrogate value for natural gas and used gas prices obtained from the International Energy Agency that are contemporaneous with the POI rather than prices from a period before the POI as was done in the preliminary determination.

13. We inflated surrogate values from periods before the POI with inflator factors derived from producer price index data from South Africa.

14. We revised the surrogate value for labor and are using the 2000 wage rate for China rather than the 1999 wage rate as was done in the preliminary determination.

15. We calculated the surrogate value for sulfuric acid from South African export data contemporaneous with the POI obtained from the WTA rather than South African import data which was used for the preliminary determination.

16. We revised our calculation of freight costs for the factors of production to include the revised distances identified during verification.

17. We revised our calculation of the net U.S. price to deduct marine insurance where appropriate.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue suspension liquidation of entries of subject merchandise from the PRC that are entered, or withdrawn from warehouse, for consumption on or after July 8, 2002 (the date of publication of the Preliminary Determination in the **Federal Register**). We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

#### Final Determination of Investigation

We determine that the following weighted-average percentage margins exist for the period April 1, 2001, through September 30, 2001:

Manufacturer/exporter	Weighted-average margin (percent)
Pangang Group International Economic & Trading Corporation .....	13.03
PRC-Wide Rate .....	66.71

The PRC-wide rate applies to all entries of the subject merchandise except for entries from Pangang.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act

Dated: November 20, 2002.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix Issues in Decision Memorandum

*Comment 1:* Whether Pangang Group International Economic & Trading Corporation (Pangang) Should Have Reported Factors of Production for All of its Production Facilities

*Comment 2:* Unreported Factors of Production

*Comment 3:* Whether Pangang Incorrectly Reported the Consumption Quantity of a Major Input

*Comment 4:* Whether the Department Should Continue to Use South Africa as the Surrogate Market Economy Country

*Comment 5:* Whether the Department Should Calculate the Surrogate Value for Vanadium Slag Using World Trade Atlas (WTA) Data or United Nations Commodity Trade Statistics (UNCTS) Data

*Comment 6:* Whether the Department Should Value Vanadium Slag Using Actual or Theoretical Consumption Quantities

*Comment 7:* Whether the Department Should Continue to Add Soda Consumption Quantities to the Reported Factors of Production

*Comment 8:* Whether the Department Should Value Soda as Sodium Hydroxide or Sodium Carbonate

*Comment 9:* Whether the Department Should Make a Concentration Adjustment to its Surrogate Value for Ammonium Sulphate

*Comment 10:* Whether the Department Should Allow an Offset for Aluminum Oxide Slag

*Comment 11:* Whether the Department Should Use Petitioners' Suggested Methodology to Value Pangang's Vanadium Slag Offset

*Comment 12:* Whether the Department Should Value the Consumption of Iron Drums Using WTA Data

*Comment 13:* Whether the Department Should Revise the Surrogate Value for Wooden Pallets and Wooden Boxes

*Comment 14:* Whether the Department Should Continue to Value Natural Gas Using IEA Data

*Comment 15:* Whether the Department Made a Ministerial Error in Calculating the Surrogate Value for Water

*Comment 16:* Whether the Department Should Use the Wholesale Price Index (WPI) or Producer Price Index (PPI) to Inflate Factor Values

*Comment 17:* Whether the Department Should Revise its Profit Ratio Calculation

*Comment 18:* Whether the Department Should Revise its Labor Rate Calculation

*Comment 19:* Whether the Surrogate Value for Sulfuric Acid is Based On Aberrational Data

*Comment 20:* Whether the Department Should Include in Normal Value the Value of the Factors of Production for Grinding Raw Vanadium Slag

*Comment 21:* Whether to Correct Certain Information Relating to Inland Freight

*Comment 22:* Whether to Deduct Marine Insurance in Calculating the Net Price for One U.S. Sale

[FR Doc. 02-30306 Filed 11-27-02; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Proposed Information Collection; Comment Request; SURF Program Student Applicant Information

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3504(c)(2)(A)).

**DATES:** Written comments must be submitted on or before January 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Terrell Vanderah, NIST, 100 Bureau Drive, Stop 8520, Gaithersburg, MD 20899, tel. (301) 975 5785, or [terrell.vanderah@nist.gov](mailto:terrell.vanderah@nist.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The purpose of this collection is to gather information needed for the SURF (Summer Undergraduate Research Fellowship) Program. The information will be provided by student applicants and will be described in the Proposal Review Process and Evaluation Criteria sections of the **Federal Register** Notice for the SURF Program. The information will be used by the Program Directors and technical evaluators to determine eligible students, select students for the program using the Evaluation Criteria described in the **Federal Register** Notice, and place selected students in appropriate research projects that match their needs, interests, and academic preparation. The information includes: student name, host institution, e-mail address, home address, class standing,



first- and second-choice NIST laboratories they wish to apply to, academic major and minor, current overall Grade Point Average, gender (for housing purposes only), availability dates, resume, personal statement of commitment and research interests, two letters of recommendation, academic transcripts, verification of U.S. citizenship or permanent legal residency, and verification of health coverage.

## II. Method of Collection

The Student Applicant Information Form is in paper form.

## III. Data

*OMB Number:* None.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 200.

*Estimated Time Per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 400.

*Estimated Total Annual Cost to the Public:* \$0.

## IV. Request for Comments

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: November 25, 2002.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 02-30298 Filed 11-27-02; 8:45 am]

BILLING CODE 3510-13-P

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Limitations of Duty-and Quota-Free Imports of Apparel Articles Assembled in Beneficiary Sub-Saharan African Countries from Regional and Third-Country Fabric

November 25, 2002.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Publishing the Third 12-Month Cap on Duty-and Quota-Free Benefits.

**EFFECTIVE DATE:** October 1, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

#### SUPPLEMENTARY INFORMATION:

**Authority:** Title I, Section 112(b)(3) of the Trade and Development Act of 2000, Section 3108 of the Trade Act of 2002; Presidential Proclamation 7350 of October 4, 2000 (65 FR 59321); Presidential Proclamation 7626 of November 13, 2002, 67 FR 69459).

Title I of the Trade and Development Act of 2000 (TDA 2000) provides for duty-and quota-free treatment for certain textile and apparel articles imported from designated beneficiary sub-Saharan African countries. Section 112(b)(3) of TDA 2000 provides duty-and quota-free treatment for apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary countries from yarn originating in the United States or one or more beneficiary countries. This preferential treatment is also available for apparel articles assembled in one or more lesser developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric used to make such articles. This special rule for lesser developed countries applies through September 30, 2004. TDA 2000 imposed a quantitative limitation on imports eligible for preferential treatment under these two provisions.

The Trade Act of 2002 amended TDA 2000 to extend preferential treatment to apparel assembled in a beneficiary sub-Saharan African country from components knit-to-shape in a beneficiary country from U.S. or beneficiary country yarns and to apparel formed on seamless knitting machines in a beneficiary country from U.S. or beneficiary country yarns, subject to the quantitative limitation. The Trade Act of 2002 also increased the quantitative limitation but provided that this increase would not apply to apparel

imported under the special rule for lesser developed countries. The Trade Act of 2002 provides that the quantitative limitation for the year beginning October 1, 2002 will be an amount not to exceed 4.2414 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. Of this overall amount, apparel imported under the special rule for lesser developed countries is limited to an amount not to exceed 2.0714 percent of apparel imported into the United States in the preceding 12-month period. For the purpose of this notice, the most recent 12-month period for which data are available is the 12-month period ending July 31, 2002.

Presidential Proclamation 7350 directed CITA to publish the aggregate quantity of imports allowed during each 12-month period in the Federal Register. Presidential Proclamation 7626, published on November 18, 2002, modified the aggregate quantity of imports allowed during each 12-month period.

For the one-year period, beginning on October 1, 2002, and extending through September 30, 2003, the aggregate quantity of imports eligible for preferential treatment under these provisions is 735,905,928 square meter equivalents. Of this amount, 359,399,147 square meter equivalents is available to apparel imported under the special rule for lesser developed countries. These quantities will be recalculated for each subsequent year. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

These quantities are calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 02-30412 Filed 11-26-02; 11:58 am]

BILLING CODE 3510-DR-S



**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE****Revision of Currently Approved Collection; Submission for OMB Review; Comment Request**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

The Corporation for National and Community Service (hereinafter the "Corporation") has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, (44 U.S.C. chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Nancy Talbot, Director, Planning and Program Development, (202) 606-5000, extension 470. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 565-2799 between 8:30 a.m. and 5 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Ms., Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395-6929, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information to those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

The Corporation seeks public comment on the forms, the instructions

and forms, and the instructions for the narrative portion of the following application instructions.

**Part I**

*Type of Review:* Revised collection.  
*Agency:* Corporation for National and Community Service.

*Title:* AmeriCorps\*VISTA Project Application Instructions.

*OMB Number:* 3045-0038.

*Agency Number:* None.

*Affected Public:* Eligible public, private, and faith-based nonprofit organizations.

*Total Respondents:* 1,200.

*Frequency:* Once per year.

*Average Time Per Response:* Fifteen (15) hours.

*Estimated Total Burden Hours:* 20,000 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

*Description:* These application instructions will be used by eligible nonprofit organizations and public agencies requesting assistance in establishing VISTA community service programs.

**Part II**

*Type of Review:* Reinstatement, with change.

*Agency:* Corporation for National and Community Service.

*Title:* National Senior Service Corps Application Instructions.

*OMB Number:* 3045-0035.

*Agency Number:* None.

*Affected Public:* Eligible applicants to the Corporation for funding.

*Total Respondents:* 1,513.

*Frequency:* Annually.

*Average Time Per Response:* 13.2 hours.

*Estimated Total Burden Hours:* 20,027 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* \$6,500.

*Description:* These application instructions will be used by eligible organizations requesting assistance through Senior Corps programs including Retired and Senior Volunteer Programs (RSVP), Senior Companion Programs (SCP) and Foster Grandparents (FGP).

**Part III**

*Type of Review:* Revised collection.

*Agency:* Corporation for National and Community Service.

*Title:* AmeriCorps\*National, State, Indian Tribes and U.S. Territories Application Instructions.

*OMB Number:* 3045-0047.

*Agency Number:* None.

*Affected Public:* Eligible applicants to the Corporation for funding.

*Total Respondents:* 2,000.

*Frequency:* Once per year.

*Average Time Per Response:* Ten (10) hours.

*Estimated Total Burden Hours:* 20,000 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

*Description:* These application instructions will be used by eligible nonprofit organizations and public agencies requesting assistance in establishing AmeriCorps community service programs.

**Part IV**

*Type of Review:* Revised collection.

*Agency:* Corporation for National and Community Service.

*Title:* AmeriCorps Education Awards Program Application Instructions.

*OMB Number:* 3045-0065.

*Agency Number:* None.

*Affected Public:* Eligible applicants to the Corporation for funding.

*Total Respondents:* 200.

*Frequency:* Annually.

*Average Time Per Response:* Eight (8) hours.

*Estimated Total Burden Hours:* 1,600 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

*Description:* These application instructions will be used by eligible nonprofit organizations and public agencies requesting assistance in establishing AmeriCorps Education Awards Programs community service programs.

**Part VI**

*Type of Review:* New collection.

*Agency:* Corporation for National and Community Service.

*Title:* Innovative and Demonstration Application Instructions.

*OMB Number:* None.

*Agency Number:* None.

*Affected Public:* Eligible applicants to the Corporation for funding.

*Total Respondents:* 400.

*Frequency:* Annually.

*Average Time Per Response:* Twenty (20) hours.

*Estimated Total Burden Hours:* 4,000 hours.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

*Description:* These application instructions will be used by eligible nonprofit organizations and public agencies requesting assistance in establishing community service, innovative or demonstration programs.

Dated: November 25, 2002.

**Nancy Talbot,**

*Director, Program Planning and Development.*

[FR Doc. 02-30373 Filed 11-27-02; 8:45 am]

**BILLING CODE 6050--\$5-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Proposed Collection; Comment Request

**AGENCY:** Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense.

**ACTION:** Notice.

In compliance with section 35006(c)(2)(A) of the Paperwork Reduction Act of 1995, the Under Secretary of Defense for Acquisition, Technology, and Logistics announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of DoD's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or forms of information technology.

**DATES:** Consideration will be given to all comments received by January 28, 2003.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Defense Standardization Program Office (DSPO), Defense Logistics Agency, J-307, Attention: Ms. Karen Bond, 8725 John J. Kingman Road, STOP 6233, Fort Belvoir, VA 22060-6221; telephone: (703) 767-6871.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please contact the Defense Standardization Program Office (DSPO) at (703) 767-6871.

*Title, Associated Forms, and OMB Number:* Acquisition Management Systems and Data Requirements Control List (AMSDDL); Numerous Forms; 0704-0188.

*Needs and Uses:* The Acquisition Management Systems and Data Requirements Control List (AMSDDL) is a list of data requirements used in Department of Defense (DoD) contracts. The information collected will be used by DoD personnel and other DoD contractors to support the design, test, manufacture, training, operation, and maintenance of procured items, including weapons systems critical to the national defense.

*Notice:* The Acquisition Management Systems and Data Requirements Control List (AMSDDL) will be canceled once reference to it has been removed from the Defense Federal Acquisition Regulation. The data item descriptions listed in the AMSDDL will be listed in the Department of Defense Index of Specifications and Standards (DoDISS). The extension of this information collection will be revised when the AMSDDL has been canceled.

*Affected Public:* Business or Other For-Profit; Not-For-Profit Institutions.

*Annual Burden Hours:* 52,628,400.

*Number of Respondents:* 886.

*Responses per Respondent:* 540.

*Average Burden per Response:* 110 hours.

*Frequency:* On occasion.

#### SUPPLEMENTARY INFORMATION:

##### Summary of Information Collection

The Acquisition Management Systems and Data Requirements Control List (AMSDDL) is a list of data requirements used in Department of Defense contracts. Information collection requests are contained in DoD contract actions for supplies, services, hardware, and software. This information is collected and used by DoD and its component Military Departments and Agencies to support the design, test, manufacture, training, operation, maintenance, and logistical support of procured items, including weapons systems. The collection of such data is essential to accomplishing the assigned mission of the Department of Defense. Failure to collect this information would have a detrimental effect on the DoD acquisition programs and the National Security.

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 02-30276 Filed 11-27-02; 8:45 am]

**BILLING CODE 5001-08-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense

**ACTION:** Notice of Advisory Committee Meetings.

**SUMMARY:** The Defense Science Board Task Force on DoD Roles and Missions in Homeland Security will meet in closed session on January 7-8, 2003; February 19-20, 2003, March 29-30, 2003; April 22-23, 2003; May 28-29, 2003; June 24-25, 2003; and July 16-17, 2003, at Strategic Analysis Inc., 3601 Wilson boulevard, Arlington, VA. The Task Force will review the Department of Defense (DoD) roles and missions in Homeland Security.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will address: the definition of "Homeland Security" and the specific roles and missions DoD will be responsible for accomplishing; the prioritized goals for these DoD roles and missions in a national security emergency; the DoD strategy and plans for the employment of National Guard and Reserve forces capabilities to participate in Homeland Security and also respond to warfighting demands overseas; the other primary Federal agencies and the evolving new Department of Homeland Security with which DoD must develop an integrated security strategy, planning function and operational capabilities and inter-agency processes that need to be put in place; the known and many unknown vulnerabilities to DoD force projection and how projections issues and responsibilities will be addressed in the larger context of Homeland Security; and the classes of technologies and systems that DoD should have the lead in developing and fielding which have applications for homeland security as well.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552(b)(1) and that, accordingly, these meetings will be closed to the public.

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

[FR Doc. 02-30272 Filed 11-27-02; 8:45 am]

**BILLING CODE 5001-08-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee Meeting.

**SUMMARY:** The Defense Science Board Task Force on Unexploded Ordnance (UXO) will meet in closed session on January 22-23, 2003, February 12-13, 2003, and March 12-13, 2003, at SAIC Inc., 4001 N. Fairfax Street, Arlington, VA. This Task Force will review modern technology that can be exploited or developed to reduce the extremely high cost of UXO clean up.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will review and evaluate the Department's ability to exploit modern technology to reduce the extremely high cost of UXO clean up and improve its effectiveness for both contaminated land and water ranges and help accomplish the job in a reasonable time; and science and technologies that can be developed to support and sustain continued live fire training and testing of munitions at ranges across the United States with an acceptable environmental impact.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

[FR Doc. 02-30273 Filed 11-27-02; 8:45 am]

**BILLING CODE 5001-08-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee Meetings.

**SUMMARY:** The Defense Science Board Task Force on Joint Experimentation will meet in closed session on December 2-3, 2002, and December 18, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. This Task Force will examine joint experimentation programs and activities and will recommend ways to enhance the contributions of joint experimentation to transformation.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will review the Joint Forces Command's program of joint experimentation and recommend steps to enhance its value by examining the goals, process and substance of the experimentation program, to include: creating an environment that fosters innovation and learning; collecting, analyzing, interpreting, vetting and disseminating data; engaging the Services, other Commands, key U.S. government agencies and allies; and developing and using models, simulations and other tools. In addition, the Task Force will review the recently completed Millennium Challenge 02 to identify insights and opportunities that may not have been focused on by those closer to the activity.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Due to critical mission requirements and the short timeframe to accomplish this review, there is insufficient time to provide timely notice required by Section 10(a)(2) of the Federal Advisory Committee Act and Subsection 101-6.1015(b) of the GSA Final Rule on Federal Advisory Committee Management, 41 CFR part 101-6, which further requires publication at least 15 calendar days prior to the first meeting of the Task Force on Joint Experimentation.

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

[FR Doc. 02-30274 Filed 11-27-02; 8:45 am]

**BILLING CODE 5001-08-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee Meeting Date Change.

**SUMMARY:** On Friday, October 11, 2002 (67 FR 63388), the Department of Defense announced a closed meeting of the Defense Science Board Task Force on Discriminant Use of Force. The meeting previously scheduled for December 3-4, 2002, has been rescheduled, to December 11, 2002. The meeting will be held at SAIC, 4001 N. Fairfax Drive, Arlington, VA.

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

[FR Doc. 02-30275 Filed 11-27-02; 8:45 am]

**BILLING CODE 5001-08-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

**AGENCY:** Department of Defense.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 10(a), Public Law 92-463, as amended, notice is hereby given of a forthcoming meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS). The purpose of the Committee meeting is to provide training to the incoming FY 2003 Committee members. The meetings is open to the public, subject to the availability of space, except for a small portion that is for administrative purposes only and is therefore not open to the public.

Interested persons may submit a written statement for consideration by the Committee and make an oral presentation of such. Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed below no later than noon, December 2, 2002. Oral presentations by members of

the public will be permitted only on Thursday, December 5, 2002, from 4:15 p.m. to 4:30 p.m. before the full Committee. Presentations will be limited to two minutes. Number of oral presentations to be made depend on the number of requests received from members of the public. Each person desiring to make an oral presentation must provide the point of contact listed below with one (1) copy of the presentation by noon, December 2, 2002 and bring 50 copies of any material that is intended for distribution at the meeting. Persons submitting a written statement only just submit one (1) copy of the statement to the DACOWITS staff by the close of the meeting on December 6, 2002.

**DATES:** December 3, 2002, 8:30 a.m.–10 a.m., and 2 p.m.–5:05 p.m.; December 4, 2002, 8:30 a.m.–5 p.m.; December 5, 2002, 8:30 a.m.–4:35 p.m.; December 6, 2002, 8:30 a.m.–4:30 p.m.

**ADDRESSES:** Courtyard Marriott, 2899 Jefferson Davis Hwy, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Shannon Thaeler, USN, DACOWITS, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000. Telephone (703) 697–2122.

**SUPPLEMENTARY INFORMATION:** Meeting agenda:

#### Tuesday, December 3, 2002

*Open to Public 8:30 a.m. to 10 a.m.*

8:30 a.m. Welcome  
Presentation of Pins and Appointment Certificates  
9 a.m. DOD's Vision for the Committee  
9:15 a.m. Welcome by DACOWITS Chair  
9:30 a.m. Committee's Mission and Process  
9:45 a.m. Break

*Not Open to Public 10 a.m. to 2 p.m. (Administration and Lunch)*

*Open to Public 2 p.m. to 5 p.m.*

2 p.m. Military Personnel Management  
3:45 p.m. Break  
4 p.m. Social Compact  
5 p.m. End of Day Wrap-up

#### Wednesday, December 4, 2002

*Open to Public All Day*

8:30 a.m. Focus Group Training  
12:00 p.m. Break for Lunch  
1:15 p.m. Focus Group Training (cont)  
4:50 p.m. End of Day Wrap-up

#### Thursday, December 5, 2002

*Open to Public All Day*

8:30 a.m. Focus Group Training (cont)

11:30 a.m. Installation Letters  
11:45 a.m. Break for Lunch  
1:00 p.m. Military Department Panel  
1:00 p.m. Introduction—DoD Transformation  
1:20 p.m. Army  
1:40 p.m. Navy  
2:00 p.m. Air Force  
2:20 p.m. Question & Answer Period  
3:00 p.m. Break  
3:15 p.m. Defense Manpower Data Center Brief  
4:15 p.m. Open Public Forum  
4:30 p.m. End of Day Wrap-Up

#### Friday, December 6, 2002

*Open to Public All Day*

8:30 a.m. Committee Organization  
11:00 a.m. Question & Answer Period  
11:30 a.m. Committee Organization  
12:00 p.m. Break for Lunch  
1:15 p.m. Committee Organization  
4:00 p.m. Wrap-Up

Dated: November 18, 2002

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 02–30271 Filed 11–27–02; 8:45 am]

**BILLING CODE 5001–08–M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Notice to alter and delete a system of records.

**SUMMARY:** The Defense Security Service (DSS) is transferring a system of records to the Defense Human Resources Activity, Office of the Secretary of Defense (OSD). The system of records is identified as V5–06, entitled 'Security Research Center Research Files'.

Before being transferred, the system of records is being altered to add a new purpose (conducting personnel security pilot test projects); a new category of records (security clearance and adjudication action information, personnel security continuing evaluation measures; background investigation reports); and adds a (k)(5) exemption to protect the identity of confidential sources. The system of records will be known as DHRA 02, entitled 'PERSEREC Research Files'.

**DATES:** The changes will be effective on December 30, 2002, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to OSD Privacy Act Coordinator, Directives and

Records Branch, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bosworth at (703) 601–4728.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 13, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

### Deletion

#### V5–06

##### SYSTEM NAME:

Security Research Center Research Files (June 1, 1999, 64 FR 29281).

##### REASON:

The responsibility for this system of records is being transferred to the Defense Human Resources Activity (DHRA), Office of the Secretary of Defense. The system of records will be known as DHRA 02, entitled 'PERSEREC Research Files'.

### Alteration

#### DHRA 02

##### SYSTEM NAME:

PERSEREC Research Files.

##### CHANGES:

\* \* \* \* \*

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry 'security clearance and adjudication action information; personnel security continuing evaluation measures; background investigation reports'.

\* \* \* \* \*

##### PURPOSE(S):

Add to entry ' ; and (6) conducting personnel security pilot test projects.'

\* \* \* \* \*

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Delete entry and replace with 'Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.'

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) published in 32 CFR part 311. For additional information contact the system manager.'

\* \* \* \* \*

**DHRA 02****SYSTEM NAME:**

PERSEREC Research Files.

**SYSTEM LOCATION:**

Defense Personnel Security Research and Education Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481; Defense Manpower Data Center, 400 Gigling Road, Seaside, CA 93955-6771; and Data Center, Naval Postgraduate School, Monterey, CA 93943.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Present and former Department of Defense (DoD) civilian employees, military members, and DoD contractor employees who have had or applied for security clearances.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Lists of cleared individuals and their security clearance and adjudication action information; data derived from: DD Forms 1879, 398 and 398-2; Standard Forms 85 and 86; and credit, criminal history and other database and sources checked during the course of background investigations and/or personnel security continuing evaluation measures; background investigation reports; and responses from personnel security-related interviews and questionnaires.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

E.O. 12968, Access to Classified Information; 50 U.S.C. 781-887, Internal Security Act of 1950; E.O. 9397 (SSN); E.O. 10450, Security Requirements for Government Employment; E.O. 10865, Safeguarding Classified Information Within Industry; E.O. 12333, United States Intelligence Activities; E.O. 12958, Classified National Security Information; 5 U.S.C. 9101, Access to Criminal History Information for

National Security and Other Purposes; and 5 U.S.C. 301, Departmental Regulations, which authorizes DoD Directive 5200.2-R, DoD Personnel Security Program Regulation.

**PURPOSE(S):**

To perform research, development, and analyses for (1) evaluating and improving DoD personnel security procedures, programs, and policies; (2) assisting in providing training, instruction, and advice on personnel security subjects for DoD Components; (3) encouraging cooperative research within and among DoD Components on projects having DoD-wide implications in order to avoid duplication; (4) addressing items of special interest to personnel security officials within DoD Components; and (5) identifying areas in the personnel security field that warrant more intense scrutiny; and (6) conducting personnel security pilot test projects.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, State, and local government agencies, if necessary, to obtain information from them, which will assist PERSEREC in identifying areas in the personnel security field that may warrant more training, instruction, research, or intense scrutiny. This would typically involve obtaining nationwide statistical data or relevant information at the unit or individual level on a specific security issue (*i.e.* financial, criminal, alcohol, etc.) or set of issues that could be used to assist an investigator or adjudicator in evaluating an individual's conduct.

The DoD 'Blanket Routine Uses' set forth at the beginning of the OSD compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Maintained on paper, computer and computer output products, and in microform.

**RETRIEVABILITY:**

Records may be retrieved by name or Social Security Number.

**SAFEGUARDS:**

Records are stored under lock and key, in secure containers, or on electronic media with intrusion safeguards.

**RETENTION AND DISPOSAL:**

Disposition pending (until NARA disposition is approved, treat as permanent).

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Defense Personnel Security Research and Education Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Defense Personnel Security Research and Education Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

The individual should provide sufficient proof of identity such as full name, Social Security Number, date and place of birth, military, contractor, or civilian status while associated with the Department of Defense, places and dates of DoD or contractor employment, and other information verifiable from the record itself.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system of record should address written inquiries to the Director, Defense Personnel Security Research and Education Center, 99 Pacific Street, Building 455E, Monterey, CA 93940-2481.

The individual should provide sufficient proof of identity such as full name, Social Security Number, date and place of birth, military, contractor, or civilian status while associated with the Department of Defense, places and dates of DoD or contractor employment, and other information verifiable from the record itself.

**CONTESTING RECORD PROCEDURES:**

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Information is obtained from the Defense Clearance and Investigative Index, military records, DoD civilian employment and military personnel records, Defense Security Service records, records of the Departments of

Justice and Treasury, other commercial and government sources providing personnel security-relevant information, and interviews with and questionnaires completed by record subjects.

#### EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 02-29815 Filed 11-27-02; 8:45 am]

BILLING CODE 5001-08-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Privacy Act of 1974; System of Records

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Notice to Alter Systems of Records.

**SUMMARY:** The Office of the Secretary of Defense proposes to alter two systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration consists of adding exemptions to two existing systems of records.

**DATES:** The changes will be effective on December 30, 2002 unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Bosworth at (703) 601-4728.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on November 13, 2002, to the House Committee on Government Reform, the Senate Committee on

Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

#### DPA DFOIA 05

##### SYSTEM NAME:

Freedom of Information Program Case Files (February 22, 1993, 58 FR 10227).

##### CHANGES:

##### SYSTEM IDENTIFIER:

Delete entry and replace with 'DFOISR 05'.

##### SYSTEM NAME:

Delete entry and replace with 'Freedom of Information Act Case Files'.  
\* \* \* \* \*

##### SYSTEM LOCATION:

Delete entry and replace with 'Directorate, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.'

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'All individuals who submit Freedom of Information Act (FOIA) requests and administrative appeals to the Office of the Secretary of Defense, the Joint Staff, and other activities receiving administrative FOIA support from Washington Headquarters Services (WHS); individuals whose FOIA requests and/or records have been referred by other Federal agencies to the WHS for release to the requester; attorneys representing individuals submitting such requests and appeals, individuals who are the subjects of such requests and appeals, and/or the WHS personnel assigned to handle such requests and appeals.'

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Records created or compiled in response to FOIA requests and administrative appeals, i.e., original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and copies of requested

records and records under administrative appeal.'

\* \* \* \* \*

##### PURPOSE(S):

Delete entry and replace with 'Information is being collected and maintained for the purpose of processing FOIA requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the Department of Defense in carrying out any other responsibilities under the FOIA.'

\* \* \* \* \*

##### RETRIEVABILITY:

Delete entry and replace with 'Retrieved by name, subject matter, date of document, and request number.'

\* \* \* \* \*

##### RETENTION AND DISPOSAL:

Delete entry and replace with 'Paper records that are granted are destroyed 2 years after the date of reply. Paper records that are denied in whole or part, no records responses, responses to requesters who do not adequately describe records being sought, do not state a willingness to pay fees, and records which are appealed or litigated are destroyed 6 years after final action. Electronic records are deleted when no longer needed to support Directorate business needs.'

\* \* \* \* \*

##### EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with 'During the course of a FOIA action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this FOIA case record, Washington Headquarters Services hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.'

\* \* \* \* \*

#### DFOISR 05

##### SYSTEM NAME:

Freedom of Information Act Case Files.

**SYSTEM LOCATION:**

Directorate, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals who submit Freedom of Information Act (FOIA) requests and administrative appeals to the Office of the Secretary of Defense, the Joint Staff, and other activities receiving administrative FOIA support from Washington Headquarters Services (WHS); individuals whose FOIA requests and/or records have been referred by other Federal agencies to the WHS for release to the requester; attorneys representing individuals submitting such requests and appeals, individuals who are the subjects of such requests and appeals, and/or the WHS personnel assigned to handle such requests and appeals.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records created or compiled in response to FOIA requests and administrative appeals, *i.e.*, original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and copies of requested records and records under administrative appeal.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations and 5 U.S.C. 552, The Freedom of Information Act, as amended; and DoD 5400.7-R, DoD Freedom of Information Act Program.

**PURPOSE(S):**

Information is being collected and maintained for the purpose of processing FOIA requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the Department of Defense in carrying out any other responsibilities under the FOIA.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Computer magnetic disks, computer database, optical disk, and paper records in file folders.

**RETRIEVABILITY:**

Retrieved by name, subject matter, date of document, and request number.

**SAFEGUARDS:**

Paper records are maintained in security containers with access only to officials whose access is based on requirements of assigned duties. Computer databases are password protected and accessed by individuals who have a need-to-know.

**RETENTION AND DISPOSAL:**

Paper records that are granted are destroyed 2 years after the date of reply. Paper records that are denied in whole or part, no records responses, responses to requesters who do not adequately describe records being sought, or do not state a willingness to pay fees, and records which are appealed or litigated are destroyed 6 years after final action. Electronic records are deleted when no longer needed to support Directorate business needs.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Director, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

Written requests for information should include the full name of the individual.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Director, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

Written requests for information should include the full name of the individual.

For personal visits to examine records, the individual should provide a form of picture identification, *i.e.*, a driver's license.

**CONTESTING RECORD PROCEDURES:**

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Those individuals who submit initial requests and administrative appeals pursuant to the FOIA, the agency records searched in the process of responding to such requests and appeals; Department of Defense personnel assigned to handle such requests and appeals; other agencies or entities that have referred to the Department of Defense requests concerning Department of Defense records, or that have consulted with the Department of Defense regarding the handling of particular requests; and submitters of records or information that have provided assistance to the Department of Defense in making FOIA access determinations.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

During the course of a FOIA action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this FOIA case record, Washington Headquarters Services hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 311. For additional information contact the system manager.

**DPA DXA.D 10****SYSTEM NAME:**

Privacy Act Request for Access Files (February 22, 1993, 58 FR 10227).

**CHANGES:****SYSTEM IDENTIFIER:**

Delete entry and replace with 'DFOISR 10'.

**SYSTEM NAME:**

Delete 'Request for Access' and replace with 'Case'.

\* \* \* \* \*

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Delete entry and replace with 'All individuals who submit Privacy Act

requests and administrative appeals to the Washington Headquarters Services (WHS), the Joint Staff, and other activities receiving administrative support from WHS; individuals whose requests and/or records have been referred by other Federal agencies to WHS for release to the requester; attorneys representing individuals submitting such requests and appeals, individuals who are the subjects of such requests and appeals, and WHS personnel assigned to handle such requests and appeals.'

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with 'Records created or compiled in response to Privacy Act requests and administrative appeals, *i.e.*, original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and copies of requested records and records under administrative appeal.'

#### **PURPOSE(S):**

Delete entry and replace with 'Information is being collected and maintained for the purpose of processing Privacy Act requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the Department of Defense in carrying out any other responsibilities under the Privacy Act of 1974.'

\* \* \* \* \*

#### **STORAGE:**

Delete current entry and replace with 'Computer database, optical disk and paper records in file folders.'

#### **RETRIEVABILITY:**

Delete entry and replace with 'Retrieved by name and/or request number.'

\* \* \* \* \*

#### **RETENTION AND DISPOSAL:**

Delete entry and replace with 'Paper records that are granted are destroyed 2 years after the date of reply. Paper records that are denied in whole or part, no record responses, responses to requesters who do not adequately describe records being sought and records that are appealed or litigated are destroyed 6 years after final action. Electronic records are deleted when no longer needed to support Directorate business needs.'

\* \* \* \* \*

#### **EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Delete entry and replace with 'During the course of a Privacy Act (PA) action, exempt materials from other systems of records may become part of the case records in this system of records. To the extent that copies of exempt records from those 'other' systems of records are entered into these PA case records, Washington Headquarters Services hereby claims the same exemptions for the records as they have in the original primary systems of records which they are a part.'

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.'

#### **DFOISR 10**

#### **SYSTEM NAME:**

Privacy Act Case Files.

#### **SYSTEM LOCATION:**

Directorate for Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

#### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All individuals who submit Privacy Act requests and administrative appeals to the Washington Headquarters Services (WHS), the Joint Staff, and other activities receiving administrative support from WHS; individuals whose requests and/or records have been referred by other Federal agencies to WHS for release to the requester; attorneys representing individuals submitting such requests and appeals, individuals who are the subjects of such requests and appeals, and WHS personnel assigned to handle such requests and appeals.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Records created or compiled in response to Privacy Act requests and administrative appeals, *i.e.*, original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and copies of requested records and records under administrative appeal.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 552a, The Privacy Act of 1974, as amended; Administrative Instruction 81, Privacy

Program; DoD 5400.11-R, Department of Defense Privacy Program; and E.O. 9397 (SSN).

#### **PURPOSE(S):**

Information is being collected and maintained for the purpose of processing Privacy Act requests and administrative appeals; for participating in litigation regarding agency action on such requests and appeals; and for assisting the Department of Defense in carrying out any other responsibilities under the Privacy Act of 1974

#### **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

Computer database, optical disk and paper records in file folders.

##### **RETRIEVABILITY:**

Filed chronologically by request number and retrieved by name and/or request number.

##### **SAFEGUARDS:**

Records are maintained in security containers with access only to officials whose access is based on requirements of assigned duties. Computer databases are password protected and accessed by individuals who have a need-to-know.

##### **RETENTION AND DISPOSAL:**

Paper records that are granted are destroyed 2 years after the date of reply. Paper records that are denied in whole or part, no record responses, responses to requesters who do not adequately describe records being sought and records that are appealed or litigated are destroyed 6 years after final action. Electronic records are deleted when no longer needed to support Directorate business needs.

##### **SYSTEM MANAGER(S) AND ADDRESS:**

Director, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.



**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Director, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

Written requests for information should include the full name of the individual.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves in this system of records should address written inquiries to Director, Freedom of Information and Security Review, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155.

Written requests for information should include the full name of the individual.

For personal visits to examine records, the individual should provide a form of picture identification, *i.e.*, a driver's license.

**CONTESTING RECORD PROCEDURES:**

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Those individuals who submit initial requests and administrative appeals pursuant to the Privacy Act; the agency records searched in the process of responding to such requests and appeals; Department of Defense personnel assigned to handle such requests and appeals; other agencies or entities that have referred to the Department of Defense requests concerning Department of Defense records, or that have consulted with the Department of Defense regarding the handling of particular requests; and submitters or subjects of records or information that have provided assistance to the Department of Defense in making access or amendment determinations.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

During the course of a Privacy Act (PA) action, exempt materials from other systems of records may become part of the case records in this system of records. To the extent that copies of exempt records from those 'other' systems of records are entered into these PA case records, Washington Headquarters Services hereby claims the

same exemptions for the records as they have in the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 02-29817 Filed 11-27-02; 8:45 am]

**BILLING CODE 5001-08-P**

**DEPARTMENT OF DEFENSE****Defense Finance and Accounting Service; Privacy Act of 1974; System of Records**

**AGENCY:** Defense Finance and Accounting Service, DOD.

**ACTION:** Notice of New Systems of Records.

**SUMMARY:** The Defense Finance and Accounting Service proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This action will be effective without further notice on December 30, 2002 unless comments are received that would result in a contrary determination.

**ADDRESSES:** FOIA/PA Program Manager, Office of General Counsel, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279-8000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Linda Krabbenhoft at (303) 676-7514.

**SUPPLEMENTARY INFORMATION:** The complete inventory of Defense Finance and Accounting Service records system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on November 13, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**T7330**

**SYSTEM NAME:**

DFAS Payroll Locator File System (PLFS).

**SYSTEM LOCATION:**

Defense Finance and Accounting Service—Cleveland, 1240 East Ninth Street, PO Box 998002, Cleveland, OH 44199-8002.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Any individual who is paid by the Defense Finance and Accounting Service is in this payroll locator file.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The locator file contains the individual's name, Social Security Number, and payroll office.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; DoD Financial Management Regulation 7000.14-R, Volumes 7A, 7B, 7C, 8, and 13; and E.O. 9397 (SSN).

**PURPOSE(S):**

This system of records is being established for the purpose of providing the Department of Defense with a single locator file that identifies those individuals paid by the Defense Finance and Accounting Service, the individual's employment status, and their payroll office location.

All records in this system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. Treasury for the purpose of effecting salary offset procedures under the provisions of 5 U.S.C. 5514, against a person who owes a debt to the U.S. Government.

The DoD "Blanket Routine Uses" published at the beginning of the DFAS compilation of systems of records notices apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Records are maintained on electronic media.

**RETRIEVABILITY:**

Retrieved by individual's name and Social Security Number.

**SAFEGUARDS:**

Records are accessed by persons responsible for servicing the records and others who are authorized by the DFAS systems administrator at DFAS Cleveland, to use the record system in performance of their official duties. records are stored in secured office buildings protected by guards and controlled by screening of personnel and the registration of visitors.

**RETENTION AND DISPOSAL:**

Disposition pending (until National Archives and Records Administration has approved the retention and disposal schedule, treat records as permanent).

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant General Counsel,  
Garnishment Operations, Defense  
Finance and Accounting Service—  
Cleveland, 1240 East Ninth Street, PO  
Box 998002, Cleveland, OH 44199–  
8002.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Privacy Act Officer, Defense Finance and Accounting Service—Cleveland, 1240 East Ninth Street, Cleveland, OH 44199–8006.

Individuals should provide their full name and Social Security Number.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Privacy Act Officer, Defense Finance and Accounting Service—Cleveland, 1240 East Ninth Street, Cleveland, OH 44199–8006.

Individuals should provide their full name and Social Security Number.

**CONTESTING RECORD PROCEDURES:**

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from the Privacy Act Officer at any DFAS Center.

**RECORDS SOURCE CATEGORIES:**

Defense Finance and Accounting  
Service payroll systems.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 02–29818 Filed 11–27–02; 8:45 am]

**BILLING CODE 5001–08–P**

**DEPARTMENT OF DEFENSE****Office of the Inspector General****Privacy Act of 1974; System of Records**

**AGENCY:** Office of the Inspector General, DoD.

**ACTION:** Notice to add and delete systems of records.

**SUMMARY:** The Office of the Inspector General, DoD is adding a system of records notice to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, and deleting a system of records.

**DATES:** This proposed action will be effective without further notice on December 30, 2002, unless comments are received which result in a contrary determination.

**ADDRESSES:** Office of the Inspector General, Department of Defense, 400 Army Navy Drive, Arlington, VA 22202–4704.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Dressel at (703) 604–8920.

**SUPPLEMENTARY INFORMATION:** The Office of the Inspector General, DoD systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 13, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

**Deletion****CIG–07****SYSTEM NAME:**

Decision Support System (DSS)—  
OAIG–AUD (February 22, 1993, 58 FR 10213).

**REASON:**

The records are being consolidated into the Inspector General system of records CIG 20, entitled “Defense Audit Management Information System (DAMIS).”

**Addition****CIG–20****SYSTEM NAME:**

Defense Audit Management  
Information System (DAMIS).

**SYSTEM LOCATION:**

Soza and Company, Ltd., 8550  
Arlington Boulevard, Fairfax, VA  
22031–4634.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All active personnel employed by the Office of the Assistant Inspector General for Auditing, the Naval Audit Service, the Army Audit Agency, and the Air Force Audit Agency.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Individual's name, current employment status, training courses scheduled and received, pay grade, handicap code, duty address, security clearance, audit project position, education, number of training days, entered on duty date, date of release, and employee status code.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301, Departmental Regulations; DoD Directive 5106.1, Inspector General of the Department of Defense; and DoD Directive 8320.1, DoD Data Administration.

**PURPOSE(S):**

Information is used to maximize staff resources and to provide audit cost summary data; to track staff hours allocated towards audit preparation and active audit projects which will allow for more effective scheduling of unassigned personnel and to categorize indirect time expended for end-of-year reporting; to plan workloads, to schedule travel, and to control travel costs on assigned audit projects; to assist in providing time and attendance

to the centralized payroll system; and to schedule and track training.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD "Blanket Routine Uses" set forth at the beginning of the OIG compilation of systems of records notices also apply to this system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Automated records are maintained on electronic storage media/magnetic tape.

**RETRIEVABILITY:**

Records are retrieved by individual's name.

**SAFEGUARDS:**

Access to DAMIS is protected through the use of assigned user/ID's and passwords for entry to the different subsystem applications. Once entry is acknowledged by the system, individual(s) are only allowed to perform predefined transactions/processes on files according to their access levels and functionality.

**RETENTION AND DISPOSAL:**

Disposition pending (until the National Archives and Records Administration has approved a retention and disposal schedule for these records, treat the records as permanent).

**SYSTEM MANAGER(S) AND ADDRESS:**

Technical Director, Analysis, Planning, and Quality Assurance Division, Office of the Assistant Inspector General for Auditing, Office of the Inspector General, DoD, 400 Army Navy Drive, Arlington, VA 22202-4704.

**NOTIFICATION PROCEDURE:**

Individuals seeking access to records about themselves contained in this system of records should address written requests to the Chief, Freedom of Information Act/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202-4704.

Written request should contain the individual's full name, signature and work organization.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to records about themselves contained in this

system of records should address written requests to the Chief, Freedom of Information Act/Privacy Act Office, 400 Army Navy Drive, Arlington, VA 22202-4704.

Written request should contain the individual's full name, signature and work organization.

**CONTESTING RECORD PROCEDURES:**

The OIG's rules for accessing records and for contesting contents and appealing initial agency determinations are published in 32 CFR part 312 or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

From the subject individual and activity supervisors.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 02-29819 Filed 11-27-02; 8:45 am]

BILLING CODE 5001-08-P

## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Notice to add/delete a system of records.

**SUMMARY:** The Department of the Air Force is proposing to delete one system of records and add another system of records to its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on December 30, 2002, unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to the Air Force Privacy Act Manager, AF-CIO/P, 1155 Air Force Pentagon, Washington, DC 20330-1155.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 13, 2002, to the House Committee on Government

Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: November 18, 2002.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

#### Deletion

#### F031 11 SPS B

**SYSTEM NAME:**

Personnel Security Clearance and Investigation Records (June 11, 1997, 62 FR 31793).

**REASON:**

Records are being incorporated into the Department of the Air Force system of records notice F031 DoD A, entitled, "Joint Personnel Adjudication System."

#### Addition

#### F031 DoD A

**SYSTEM NAME:**

Joint Personnel Adjudication System (JPAS).

**SYSTEM LOCATION:**

*Primary location:* Department of the Air Force, Air Force Central Adjudication Facility, DoD Joint Personnel Adjudication System Program Office, 229 Brookley Avenue, Bolling Air Force Base, Washington, DC 20332-7040.

*Secondary locations:* The Department of Defense eight central adjudication facilities are located as follows:

Department of the Army, Central Personnel Security Clearance Facility, Fort George G. Meade, MD 20755-5250; Department of the Navy, Naval Criminal Investigative Service, Central Adjudication Facility, 716 Sicard Street, SE., Washington Navy Yard, DC 20388-5329;

Office of the Secretary of Defense, Washington Headquarters Service, Consolidated Adjudication Facility, 1777 North Kent Street, Suite 12047, Arlington, VA 22209-2164;

Defense Intelligence Agency, 3100 Clarendon Boulevard, Arlington, VA 22201-5320;

Defense Office of Hearing Appeals, 4015 Wilson Boulevard, Arlington, VA 22203-0656;

National Security Agency, Fort George G. Meade, MD 20755-6000;

Joint Chiefs of Staff, Directorate for Information Management, Joint Staff

Security Office, 9300 Joint Staff, Room 1B738, Washington, DC, 20301-9300; and

Defense Security Service, Defense Industrial Security Office, 2780 Airport Drive, Suite 400, Columbus, OH 43219-2268.

Security offices of all DoD activities, to include those located in the continental United States (CONUS); overseas military locations and units deployed on DoD missions; all centralized and non-centralized DoD special security offices, and appropriately cleared DoD contractor facilities. Additionally, duplicate portions of records are contained in DoD automated personnel information systems, and the Defense Central Index of Investigations (DCII). A record of all registered locations is available from the DoD Joint Personnel Adjudication System Program Office, 229 Brookley Avenue, Bolling Air Force Base, Washington, DC 20332-7040.

#### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All Department of Defense active and reserve military personnel; civilian employees and applicants; DoD contractor employees and applicants; National Guard personnel; U.S. Coast Guard military and civilian personnel and applicants requiring access to National Security and/or Sensitive Compartmented Information; "affiliated" personnel (such as Non-Appropriated Fund employees, Red Cross volunteers and staff; USO personnel, and congressional staff members); and foreign nationals whose duties require access to National Security Information (NSI) and/or assignment to a sensitive position.

#### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Records documenting the personnel security adjudicative and management process, to include an individual's Social Security Number; name (both, current, former and alternate names); date of birth; state of birth; country of citizenship; type of DoD affiliation; employing activity; current employment status; position sensitivity; personnel security investigative basis; status of current adjudicative action; security clearance eligibility and access status; exceptions (if the eligibility determination was based on a condition, deviation from prescribed investigative standards or waiver of adjudication guidelines; reports of security-related incidents, to include issue files; suspension of eligibility and/or access; denial or revocation of eligibility and/or access; eligibility recommendations or decisions made by an appellate

authority; non-disclosure execution dates; indoctrination date(s); level(s) of access granted; debriefing date(s); and reasons for debriefing.

#### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

10 U.S.C. 8013, Secretary of the Air Force; 5 U.S.C. 301, Departmental Regulations; 50 U.S.C. 401, Congressional declaration of purpose; 50 U.S.C. 435, Purposes; 36 CFR part 1234, Electronic Records Management; DoD 5200.2R, Department of Defense Personnel Security Program Regulation; DoD 5105.21-M-1, Sensitive Compartment Information Administrative Security Manual; E.O. 9397 (SSN); E.O. 10450, Security Requirements for Government Employment; E.O. 10865, Safeguarding Classified Information Within Industry; E.O. 12333, United States Intelligence Activities; E.O. 12829, National Industrial Security Program; and E.O. 12968, Access to Classified Information.

#### **PURPOSE(S):**

The Joint Personnel Adjudication System (JPAS) is the automated system used for personnel security management within DoD, providing a common, comprehensive medium to record and document personnel security actions within the Department. JPAS also compiles statistical data for use in analyses and studies.

#### **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as follows to:

To the White House to obtain approval of the President of the United States regarding certain military personnel office actions as provided for in DoD Instruction 1320.4; "Military Officer Actions Requiring Approval of the Secretary of Defense or the President, or Confirmation by the Senate."

To the Immigration and Naturalization Service for use in alien admission and naturalization inquiries.

To the Federal Bureau of Investigation; the National Aeronautics and Space Administration; the Central Intelligence Agency; the Office of Personnel Management; the Department of State, the Department of Treasury; the Internal Revenue Service; the U.S. Postal Service; the U.S. Secret Service; the Bureau of Alcohol, Tobacco and Firearms; the U.S. Customs Service; and any other related Federal agencies for

the purpose of determining access to National Security information (NSI) pursuant to E.O. 12968.

The DoD "Blanket Routine Uses" set forth at the beginning of the Air Force's compilation of systems of records notices also apply to this system.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

Records contained in the system are stored on electronic media (such as CD-ROM disks, optical digital data disks, computers, and computer output products).

##### **RETRIEVABILITY:**

Information is retrieved by full name, Social Security Number, date of birth, state and country of birth.

##### **SAFEGUARDS:**

Electronically and optically stored records are maintained in "fail-safe" system software with password-protected access. Records are accessible only to authorized persons with a valid need-to-know, who are appropriately screened, investigated and determined eligible for access. During non-duty hours, alarms systems and/or security or military police guards secure all locations. Only authorized personnel with a valid need-to-know are allowed access to JPAS. Additionally, JPAS users are subject to limitations within the system, based on their specific functions and security eligibility and access level.

##### **RETENTION AND DISPOSAL:**

Automated records are actively retained during the entire period an individual maintains DoD affiliation. When either (1) the affiliation ends or (2) an applicant is not accepted for DoD affiliation, the automated records are actively retained for two years. At the end of the two-year period, the automated record is moved to an electronic archive with retrieval capability. Destruction of automated records is by erasure and/or degaussing.

##### **SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Programs and Resources, AFCAF and JPAS Program Manager, Department of the Air Force, Air Force Central Adjudication Facility, DoD Joint Personnel Adjudication System Program Office, 229 Brookley Avenue, Bolling Air Force Base, Washington, DC 20332-7040.

##### **NOTIFICATION PROCEDURE:**

Individuals seeking to determine whether information about themselves is contained in this system should

address written inquiries to the Department of the Air Force, Air Force Central Adjudication Facility, DoD Joint Personnel Adjudication System Program Office, 229 Brookley Avenue, Bolling Air Force Base, Washington, DC 20332-7040.

Individual should provide their full name (and any alias and/or alternate names used), Social Security Number, and date and place of birth.

#### RECORDS ACCESS PROCEDURES:

Individual seeking information about themselves contained in this system should address written inquiries to the Department of the Air Force, Air Force Central Adjudication Facility, DoD Joint Personnel Adjudication System Program Office, 229 Brookley Avenue, Bolling Air Force Base, Washington, DC 20332-7040.

Individual should provide their full name (and any alias and/or alternate names used), Social Security Number, and date and place of birth.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for their representative to act on their behalf.

#### CONTESTING RECORDS PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37-132; 32 CFR part 806b; or may be obtained from the system manager.

#### RECORDS SOURCE CATEGORIES:

Information contained in this system is derived from the appropriate DOD personnel systems; records maintained by the DOD adjudicative agencies; and records maintained by security managers, special security officers, or other officials requesting and/or sponsoring the security eligibility determination for the individual. Additional information may be obtained from other sources (such as personnel

security investigations, personal financial records, military service records, medical records and unsolicited sources.)

#### EXEMPTIONS CLAIMED FOR THE SYSTEM:

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) published in 32 CFR part 806b. For additional information contact the system manager.

[FR Doc. 02-29813 Filed 11-27-02; 8:45 am]

BILLING CODE 5001-08-P

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Meeting of the U.S. Naval Academy Board of Visitors

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of partially closed meeting.

**SUMMARY:** The U.S. Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

**DATES:** The meeting will be held on Friday, December 13, 2002, from 8 a.m. to 11:15 a.m. The closed Executive Session will be from 11:15 a.m. to 12 p.m.

**ADDRESSES:** The meeting will be held at the U.S. Naval Academy, Annapolis, Maryland in the Bo Coppedge dining room of Alumni Hall.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Domenick Micillo, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy,

Annapolis, MD 21402-5000, (410) 293-1503.

**SUPPLEMENTARY INFORMATION:** This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information, which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552(b)(c)(2), (5), (6), (7) and (9) of title 5, United States Code.

Dated: November 22, 2002.

**R.E. Vincent II,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 02-30382 Filed 11-27-02; 8:45 am]

BILLING CODE 3810-FF-P

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Meeting of the Planning and Steering Advisory Committee (PSAC)

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Notice of closed meeting.

**SUMMARY:** The purpose of this meeting is to discuss topics relevant to SSBN security.

**DATES:** The meeting will be held on Wednesday, December 11, 2002, from 9 a.m. to 4 p.m.

**ADDRESSES:** The meeting will be held at the Center for Naval Analyses, 4825 Mark Center, Alexandria, VA.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander James Latsko, CNO (N775C2), 2000 Navy Pentagon, NC-1, Washington, DC 20350-2000, (703) 604-7392.

**SUPPLEMENTARY INFORMATION:** This notice of closed meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The entire agenda will consist of classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed

to the public because they concern matters listed in 552b(c)(1) of title 5, United States Code.

Dated: November 22, 2002.

**R.E. Vincent II,**

*Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 02-30383 Filed 11-27-02; 8:45 am]

BILLING CODE 3810-FF-P

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Leader, Regulatory Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before December 30, 2002.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the e-mail address [Karen\\_F\\_Lee@omb.eop.gov](mailto:Karen_F_Lee@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and

proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 22, 2002.

**John D. Tressler Leader,**

*Regulatory Management Group, Office of the Chief Information Officer.*

### Office of Special Education and Rehabilitative Services

*Type of Review:* New.

*Title:* Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program.

*Frequency:* Annually.

*Affected Public:*

State, Local, or Tribal Gov't, SEAs or LEAs; Businesses or other for-profit; Not-for-profit institutions.

*Reporting and Recordkeeping Hour Burden:*

Responses: 66;

Burden Hours: 1,056.

*Abstract:* This data collection will be conducted annually to obtain program and performance information from the AIVRS grantees on their project activities. The information collected will assist federal Rehabilitation Services Administration (RSA) staff in responding to the Government Performance and Results Act (GPRA). Data will primarily be collected through an Internet form.

Requests for copies of the submission for OMB review; comment request may be accessed from <http://edicsweb.ed.gov>, by selecting the Browse Pending Collections link and by clicking on link number 2121. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202-4651 or to the e-mail address [vivan.reese@ed.gov](mailto:vivan.reese@ed.gov). Requests may also be electronically mailed to the e-mail address [OCIO\\_RIMG@ed.gov](mailto:OCIO_RIMG@ed.gov) or faxed to 202-708-9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address [Sheila.Carey@ed.gov](mailto:Sheila.Carey@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 02-30191 Filed 11-27-02; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF EDUCATION

### Secretary of Education's Commission on Opportunity in Athletics

**AGENCY:** Secretary of Education's Commission on Opportunity in Athletics; Department of Education.

**ACTION:** Notice of open meeting; correction.

**SUMMARY:** On November 22, 2002 (67 FR 70416) a notice of the schedule and proposed agenda of a forthcoming public meeting of the Secretary of Education's Commission on Opportunity in Athletics (the Commission) was published in the **Federal Register**. This notice corrects the earlier notice to add an additional date, time, and location to the notice of meeting as follows:

**DATES:** December 3-4, 2002.

*Location:* Philadelphia Marriott. 1201 Market Street, Philadelphia, PA.

*Times:* December 3: 1 p.m.-8 p.m.; December 4: 9 a.m.-12:30 p.m., 2 p.m.-5 p.m.

Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

All other information in the November 22nd notice remains the same.

**ADDRESSES:** The Secretary of Education's Commission on Opportunity in Athletics, 400 Maryland Avenue, SW., ROB-3 Room 3060, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** See the Commission address under the **ADDRESSES** section of this notice. View the Commission's Web site at: <http://www.ed.gov/inits/commissionsboards/athletics>. The Commission office number is 202-708-7417.

### Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

Dated: November 25, 2002.

**Rod Paige,**

*Secretary of Education.*

[FR Doc. 02-30375 Filed 11-27-02; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-30-001]

#### Algonquin LNG, LP; Notice of Compliance Filing

November 22, 2002.

Take notice that on November 20, 2002, Algonquin LNG, LP (ALNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 1; First Revised Sheet No. 84; and First Revised Sheet No. 85, proposed to be effective on October 17, 2002.

ALNG states that the purpose of this filing is to incorporate modifications reflected in certain tariff sheets that were accepted by the Commission in an order issued subsequent to ALNG's filing of its corporate name change on October 17, 2002, which was approved by letter order dated November 4, 2002, in Docket No. RP03-30-000.

ALNG states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02-30284 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-87-000]

#### Algonquin LNG, LP; Notice of Tariff Filing

November 22, 2002.

Take notice that on November 20, 2002, Algonquin LNG, LP (ALNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in Appendix A of the filing, to be effective December 21, 2002.

ALNG states that the purpose of this filing is to modify the ALNG Tariff to reflect (i) the reinstatement of the price ceiling for short-term capacity release transactions, and, (ii) the removal of references to the Telephone Bulletin Board since ALNG posts on its Internet Web site the information that ALNG is required to make publicly available.

ALNG states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and

interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02-30290 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP99-301-062]

#### ANR Pipeline Company; Notice of Negotiated Rate Filing

November 22, 2002.

Take notice that on November 19, 2002, ANR Pipeline Company (ANR), tendered for filing an amendment to a Firm Storage Service Agreement and a description of the essential conditions involved in agreeing to an amended Negotiated Rate Arrangement. ANR requests that the Commission approve the amended Negotiated Rate Arrangement to be effective on November 19, 2002.

ANR states that the filed Negotiated Rate Arrangement reflects that the negotiated rate between ANR and Dynegy Marketing and Trade and all underlying service will be terminated on April 1, 2003 instead of June 30, 2007.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at

*FERCOnlineSupport@ferc.gov* or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
*Deputy Secretary.*

[FR Doc. 02-30281 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. EC03-20-000, EL02-104-000, ER02-2234-000, ER02-2234-001 and ER03-139-000]

#### California Power Exchange Corporation; Notice of Filing for Approval of Funding and Governance as Provided in Confirmed Chapter 11 Plan

November 22, 2002.

Take notice that on November 20, 2002, the Official Committee of Participant Creditors (Committee) of the California Power Exchange Corporation (CalPX) tendered for filing a request for approval of funding and governance, in accordance with the Commission's Order on Complaint and Order Granting Petition for Declaratory Order, issued on July 30, 2002, in Docket No. EL02-104-000, 100 FERC ¶ 61,124, and the "Official Committee of Participant Creditors" Fifth Amended Chapter 11 Plan, As Modified (Revised October 1, 2002)" confirmed by the United States Bankruptcy Court for the Central District of California by an Order entered on November 1, 2002 (Confirmed Plan). The Committee requests that the Commission approve, on an expedited basis: (1) The establishment of reserves and accounts by CalPX for specified purposes, and (2) the governance structure for reorganized CalPX, as set forth in the Confirmed Plan.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. *Comment Date:* December 6, 2002.

**Linwood A. Watson, Jr.,**  
*Deputy Secretary.*

[FR Doc. 02-30278 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-29-001]

#### CenterPoint Energy Gas Transmission Company; Notice of Compliance Filing

November 22, 2002.

Take notice that on November 20, 2002, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective on November 17, 2002:

Second Revised Sheet No. 430  
Original Sheet No. 430A

CEGT states that it also proposes to withdraw First Revised Sheet No. 461 filed in this docket on October 17, 2002. CEGT states that the purpose of this filing is to comply with the Commission's order issued November 14, 2002 in Docket No. RP03-29-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210

of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
*Deputy Secretary.*

[FR Doc. 02-30283 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-83-000]

#### Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 22, 2002.

Take notice that on November 21, 2002, Dominion Transmission Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Sixteenth Revised Sheet No. 31 and Nineteenth Revised Sheet No. 32, with an effective date of January 1, 2003.

DTI states that the purpose of this filing is to adopt the 2003 Gas Research Institute (GRI) surcharges approved by the Commission in Docket No. RP02-354-000.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make



protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02-30286 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RT01-74-000; Docket No. RT01-67-000; and Docket No. EL02-101-000]

**GridSouth Transco, LLC, Carolina Power & Light Company, Duke Energy Corporation, South Carolina Electric & Gas Company; GridFlorida, LLC, Florida Power & Light Company, Florida Power Corporation, Tampa Electric Company; Cleco Power LLC; Dalton Utilities (acting as agent for the City of Dalton, Georgia); Entergy Services, Inc. (acting as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc.); Georgia Transmission Corporation; JEA (formerly Jacksonville Electric Authority); MEAG Power; Sam Rayburn G & T Electric Cooperative Inc.; South Carolina Public Service Authority; Southern Company Services, Inc. (Acting as Agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company); and the City of Tallahassee, Florida; Notice of FERC Staff Briefing**

November 22, 2002.

The Federal Energy Regulatory Commission hereby gives notice that on December 5, 2002, members of its staff will attend a briefing given by J. Stephen Henderson of Charles River Associates to discuss a cost-benefit study that was recently released by the Southeastern Association of Regulatory Utility Commissioners. The staff's attendance is part of the Commission's ongoing outreach efforts to develop regional transmission organizations in the Southeastern United States.

The meeting will be held on Thursday, December 5, 2002, at 2 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. This meeting is open to the public.

The meeting may discuss matters at issue in Carolina Power & Light Company, *et al.*, Docket No. RT01-74; GridFlorida LLC, *et al.*, Docket No. RT01-67; and Cleco Power LLC; *et al.*, Docket No. EL02-101.

For more information, contact Charles Whitmore, Special Assistant, in the Office of Market Oversight and

Investigation at (202) 502-6256 or e-mail at [charles.whitmore@ferc.gov](mailto:charles.whitmore@ferc.gov).

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02-30293 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-82-000]

#### Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 22, 2002.

Take notice that on November 20, 2002, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective October 31, 2002.

First Revised Sheet No. 212  
Second Revised Sheet No. 533  
Third Revised Sheet No. 632  
Second Revised Sheet No. 733  
Second Revised Sheet No. 812

Kern River states that the purpose of this filing is to revise Kern River's tariff to remove the term matching cap that currently applies to a shipper that elects to exercise a right of first refusal for an expiring or terminating service agreement.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online

Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
Deputy Secretary.

[FR Doc. 02-30285 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP02-543-001]

#### Northern Border Pipeline Company; Notice of Compliance Filing

November 22, 2002.

Take notice that on November 19, 2002, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Second Revised Sheet No. 267; and Original Sheet No. 267.01, to become effective November 1, 2002.

Northern Border states that the purpose of this filing is to comply with the Commission's order at Docket No. RP02-543-000 dated October 30, 2002, wherein the Commission directed Northern Border to revise Northern Border's FERC Gas Tariff to comply with Section 154.109(b) of the Commission's regulations, stating when Northern Border will pay or contribute to the construction cost of lateral lines, and when the customer should bear those burdens.

Northern Border states that it has served a copy of this compliance filing upon the parties of record in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be

viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
Deputy Secretary.

[FR Doc. 02-30282 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-85-000]

#### Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 22, 2002.

Take notice that on November 20, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 278-C, to be effective December 21, 2002.

Northwest states that the purpose of this filing is to revise its tariff by removing from the right of first refusal provisions the five-year term matching cap, consistent with the Order on Remand issued by the Commission on October 31, 2002 in Docket No. RM98-10-011.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the

Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
Deputy Secretary.

[FR Doc. 02-30288 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-86-000]

#### Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 22, 2002.

Take notice that on November 20, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to become effective January 1, 2003:

Third Revised Volume No. 1  
Twenty-Third Revised Sheet No. 5  
Tenth Revised Sheet No. 6  
Original Volume No. 2  
Twenty-Ninth Revised Sheet No. 2.2

Northwest states that the purpose of this filing is to revise its tariff to incorporate the Gas Research Institute (GRI) surcharges approved by the Commission for 2003.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
*Deputy Secretary.*

[FR Doc. 02-30289 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-89-000]

#### Northwest Pipeline Corporation; Notice of Tariff Filing

November 22, 2002.

Take notice that on November 20, 2002, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 25, to be effective December 21, 2002.

Northwest states that the purpose of this filing is to revise the tariff to expressly state that it permits nominations of forwardhauls up to contract demand and backhauls up to contract demand to the same point at the same time for segmented capacity, pursuant to the Order on Remand issued by the Commission on October 31, 2002 in Docket No. RM98-10-011.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections

385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
*Deputy Secretary.*

[FR Doc. 02-30292 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP02-1-003]

#### Southern Natural Gas Company; Notice of Amendment

November 22, 2002.

Take notice that on November 18, 2002, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in the above referenced docket, an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's Rules and Regulations, to amend its Order Issuing Certificate and Approving Abandonment (Certificate Order) issued in this proceeding on September 20, 2002 (Southern Natural Gas Company, 100 FERC § 61,281 (2002)). Southern seeks approval of a change in the construction schedule of certain of the expansion facilities to accommodate the restructuring of the transportation services of one of the shippers participating in the expansion project and of a change in ownership of certain

measurement facilities authorized by the Certificate Order. This application is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [fercolinesupport@ferc.gov](mailto:fercolinesupport@ferc.gov) or call toll free (866) 208-3676 or for TTY, (202) 502-8659.

Southern states that one of the shippers participating in the South System Expansion II Project, Southern Company Services, Inc. (SCS), has advised Southern that it will not need to have its Transportation Demand available until November 1, 2003, and has requested to amend its Firm Transportation Service Agreement to revise the initial target date for service to commence thereunder. Accordingly, Southern proposes to shift the construction of certain of the Phase 1 facilities from the 2002-2003 winter spring construction season to the 2003 summer construction season. In addition, Southern and SCG Pipeline, Inc. (SCG) have agreed to the terms and conditions under which they will share ownership of the proposed Port Wentworth Meter Station. Therefore, Southern is requesting an amendment to the Certificate Order to reflect that it will have a thirty-eight and nine-tenths percent (38.9%) ownership interest in that facility.

Southern states further that the proposed changes will not materially modify the nature, scope, or impact of the project. Southern assures that the amount of capacity to be added to Southern's pipeline system and the shippers subscribing to that capacity remain the same. Southern also states that the environmental impact of the project will remain essentially the same, and that due to summer construction rather than the winter-spring construction, may reduce the effects of construction on the environment and should facilitate the construction process. Additionally, Southern states that it does not anticipate that the change in the construction schedule will result in a change in the total cost of the project, and consequently the project will still provide a substantial financial benefit to its system.

Any questions regarding this application should be directed to R. David Hendrickson, Associate General Counsel, at (205) 325-7114, Southern Natural Gas Company, Post Office Box

2563, Birmingham, Alabama 35202–2563.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before December 13, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project.

This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–30277 Filed 11–27–02; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03–88–000]

#### Tennessee Gas Pipeline Company; Notice of Tariff Filing

November 22, 2002.

Take notice that on November 18, 2002, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with effective date as indicated:

First Revised Second Substitute First Revised Sheet No. 23F; effective December 1, 2001  
First Revised Substitute Second Revised Sheet No. 23; effective July 1, 2002  
Fourth Revised Sheet No. 23F; effective July 1, 2002

Tennessee states that the purpose of this filing is to refile Sheet Nos. 23F to

correctly include a line for Fuel and Losses for the Stagecoach Lateral under Rate schedule FT-IL that has been inadvertently omitted from three (3) prior filings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–30291 Filed 11–27–02; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP95–197–048]

#### Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

November 22, 2002.

Take notice that on November 19, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing, with a proposed effective date of January 1, 2003.

Transco states that the purpose of this filing is to comply with the Commission's Order Rejecting Compliance Filing issued on November 4, 2002, in the referenced dockets, in which the Commission directed Transco to refile, within 15 days, revised tariff sheets to unbundle its Rate Schedule SS-1 service.

Transco states that it will serve copies of the instant filing on its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
Deputy Secretary.

[FR Doc. 02-30280 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-84-000]

#### Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

November 22, 2002.

Take notice that on November 20, 2002, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revise tariff sheets listed on Appendix A attached to the filing, with a proposed effective date of January 1, 2003.

Transco states that the purpose of this filing is to offer the existing Rate Schedule SS-1 customers the option to elect service provided pursuant to Transco's blanket transportation certificate and part 284 of the Commission's regulations under Transco's existing Rate Schedule FT and under a new "Rate Schedule SS-1 Open Access Storage Service."

Transco states that it will serve copies of the instant filing on its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

**Linwood A. Watson, Jr.,**  
Deputy Secretary.

[FR Doc. 02-30287 Filed 11-27-02; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL03-26-000, et al.]

#### New York Independent System Operator, Inc., et al.; Electric Rate and Corporate Regulation Filings

November 22, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

##### 1. New York Independent System Operator, Inc.

[Docket No. EL03-26-000] Take notice that on November 8, 2002, New York Independent System Operator, Inc. (NYISO) filed with the Federal Energy Regulatory Commission (Commission) a letter enclosing the arbitration decision in American Arbitration Association (AAA) proceeding number 13 198 00247 02, dated October 28, 2002, involving certain claims brought by Dynegy Power Marketing, Inc. (Dynegy) against the NYISO (Arbitration Decision). The Arbitration Decision involves the amount of certain payments to be made to a market participant in connection with the operation of the NYISO's automated mitigation procedure (AMP), as approved by the Commission. New York System Independent System Operator, Inc., 95 FERC ¶61,471 (2001). The Arbitration Decision is being filed pursuant to Section 11.3 of the NYISO Market Administration and Control Area Services Tariff (Services Tariff), which provides that: "All arbitration decisions that affect matters subject to the jurisdiction of the Commission shall be filed with the Commission."

The NYISO states that its filing has been served upon Dynegy and the Arbitrator through his designated representative at the AAA.

The NYISO also states that Section 11.3 of the Services Tariff provides that a party may request the Commission to vacate, modify or take such other action as may be appropriate with respect to any arbitration decision. The NYISO states that Section 11.3 of the Services Tariff also provides that parties have one year to seek Commission action.

*Comment Date:* October 28, 2003.

##### 2. Athens Generating Company, L.P.; Covert Generating Company, LLC; Harquahala Generating Company, LLC; Millennium Power Partners, L.P.

[Docket Nos. ER99-4282-003; ER01-520-003; ER02-748-003; and ER98-830-007]

Take notice that on November 18, 2002, Athens Generating Company, L.P., Covert Generating Company, LLC, Harquahala Generating Company, LLC, and Millennium Power Partners, L.P. (collectively the Companies), each of

which is an indirect, wholly-owned subsidiary of PG&E National Energy Group, Inc. (PG&E NEG) tendered for filing, information that reflects a departure from the characteristics relied upon by the Commission in approving market-based pricing. Specifically, the Companies have submitted information concerning a potential change in their direct or indirect upstream ownership from PG&E NEG to certain lenders (or direct or indirect subsidiaries of those lenders) to the Companies (or the Companies' direct or indirect upstream owners).

*Comment Date:* December 4, 2002.

**3. Sithe Edgar LLC; Sithe Framingham LLC; Sithe Mystic LLC; Sithe New Boston LLC; Sithe West Medway LLC; Sithe Wyman LLC; AG-Energy, L.P.; Power City Partners, L.P.; Seneca Power Partners, L.P.; Sterling Power Partners, L.P.**

[Docket No. ER01-513-003]

Take notice that on November 19, 2002, Sithe Edgar LLC, Sithe Framingham LLC, Sithe Mystic LLC, Sithe New Boston LLC, Sithe West Medway LLC, Sithe Wyman LLC, AG-Energy, L.P., Power City Partners, L.P., Seneca Power Partners, L.P., and Sterling PowerPartners, L.P. (the "Sithe Project Companies") submitted revised tariff sheets in compliance with the Commission's January 24, 2001 order in the above-captioned proceeding directing the Sithe Project Companies to conform the rate schedule designations with the requirements of Order No. 614. These tariff sheets replace those submitted by the Sithe Project Companies in the above-captioned docket on November 30, 2001.

*Comment Date:* December 10, 2002.

**4. California Independent System Operator Corporation**

[Docket No. ER02-2489-001]

Take notice that on November 20, 2002, the California Independent System Operator Corporation (ISO) tendered for filing a compliance filing made in compliance with the Commission's October 21, 2002 Order Accepting Contract Revision, Subject to Modification. The compliance filing revises Appendix A to the Responsible Participating Transmission Owner Agreement (RPTO Agreement) between the ISO and Pacific Gas and Electric Company (PG&E), in accordance with the October 21 Order.

The ISO states that this filing has been served on all entities that are on the official service list for this docket.

*Comment Date:* December 11, 2002.

**5. New England Power Company**

[Docket No. ER03-199-000]

Take notice that on November 20, 2002, New England Power Company (NEP) filed with the Commission notice of the cancellation of Rate Schedule FERC No. 421 (Rate Schedule 421). Rate Schedule 421 is an Interconnection Agreement between NEP and Public Service Company of New Hampshire (PSNH). NEP requests that the cancellation be made effective on July 1, 2002. NEP has served the filing upon PSNH and the persons listed on the service list for Docket No. ER93-255-000.

*Comment Date:* December 11, 2002.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

**Magalie R. Salas, Secretary.**

[FR Doc. 02-30378 Filed 11-27-02; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Project No. 2652-007]

**Notice of settlement Agreement and Soliciting Comments**

November 22, 2002.

Take notice that the following Settlement Agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 2652-007.

c. *Date filed:* November 12, 2002.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Bigfork Hydroelectric Project.

f. *Location:* On the Swan River, in the Town of Bigfork, Flathead County, Montana. The project does not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Dave Leonhardt, Project Manager, PacifiCorp, 825 NE.

Multnomah, Suite 1500, Portland, OR 97232; (503) 813-6658.

i. *FERC Contact:* Steve Hocking, (202) 502-8753, [steve.hocking@ferc.gov](mailto:steve.hocking@ferc.gov)

j. *Deadline for filing comments:* December 12, 2002. Reply comments due December 23, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 2652-007 to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site <http://www.ferc.gov> under the "e-Filing" link.

The Commission's rules of practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Filing:* PacifiCorp filed the Settlement Agreement on behalf of itself and the National Park Service; Montana Department of Fish, Wildlife and Parks; Bigfork Area

Chamber of Commerce; American Whitewater; Bigfork Whitewater Festival Organization; Bigfork Development Company; Flathead Lakers; and Flathead Whitewater Association. The purpose of the Settlement Agreement is to resolve among the signatories all recreation issues associated with relicensing the Bigfork Project. The signatories ask the Commission to accept and incorporate without modification the recreation measures set forth in Section 3 of the Settlement Agreement except for those measures not required for operation of the project or other project purposes.

1. A copy of the settlement agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov) or toll-free at (866) 208-3676, or for TTY, (202) 502-8659. A copy is also available for inspection and reproduction at the address in item h above.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02-30279 Filed 11-27-02; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7414-7]

### Agency Information Collection Activities; OMB Responses

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notices.

**SUMMARY:** This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

#### FOR FURTHER INFORMATION CONTACT:

Susan Auby at (202) 566-1672, or e-mail at [Auby.susan@epa.gov](mailto:Auby.susan@epa.gov), and please refer to the appropriate EPA Information Collection Request (ICR) Number.

#### SUPPLEMENTARY INFORMATION:

### OMB Responses to Agency Clearance Requests

#### OMB Approvals

*EPA ICR No. 1054.08;* Standards of Performance for Petroleum Refineries in 40 CFR part 60, subpart J, was approved 11/01/2002; OMB No. 2060-0022; expires 11/30/2005.

*EPA ICR No. 2067.02;* Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium Under the Safe Drinking Water Act; was approved 10/23/02; OMB No. 2040-0246; expires 10/31/2005.

*EPA ICR No. 1189.11;* Identification Listing and Rulemaking Petitions (Zinc Fertilizers Final Rule); in 40 CFR 261.4(a)(20)(ii)(A) & (D), 261.4(a)(20)(iii)(B), 261.4(a)(21)(iii)(D), 261.4(a)(21)(ii), 261.4(a)(21)(iii); was approved 10/23/2002; OMB No. 2050-0053; expires 11/30/2004.

*EPA ICR No. 0277.13;* Application for New and Amended Pesticide Registration; in 40 CFR parts 152, 156 and 158; was approved 10/22/2002; OMB No. 2070-0060; expires 10/31/2005.

*EPA ICR No. 1057.09;* NSPS for Sulfuric Acid Plants in 40 CFR part 60, subpart H; was approved 10/22/2002; OMB No. 2060-0041; expires 10/31/2005.

*EPA ICR No. 1801.03;* NESHAP for the Portland Cement Manufacturing Industry in 40 CFR part 63, subpart LLL; was approved 10/22/2002; OMB No. 2060-0416; expires 10/31/2005.

*EPA ICR No. 1069.07;* NSPS for Iron and Steel Plants: Basic Oxygen Process Furnaces in 40 CFR part 60, subparts N and Na; was approved 10/22/2002; OMB No. 2060-0029; expires 10/31/2005.

*EPA ICR No. 1775.03;* Hazardous Remediation Waste Management Requirements (HWIR-Media); in 40 CFR 264.1, 40 CFR part 270, subpart H, 40 CFR 264.554, 40 CFR 264.256(a), 40 CFR 265.258(a); was approved 9/10/2002; OMB No. 2050-0161; expires 09/30/2005.

*EPA ICR No. 1601.05;* Air Pollution Regulations for Outer Continental Shelf Activities; in 40 CFR part 55; was approved 10/17/2002; OMB No. 2060-0249; expires 10/31/2005.

*EPA ICR No. 1887.02;* Personal Exposure of High-Risk Subpopulations to Particles; was approved 10/31/2002; OMB No. 2080-0058; expires 10/31/2005.

#### Comments Filed

*EPA ICR No. 2062.01;* NESHAP: Site Remediation; in 40 CFR part 63, subpart GGGG; on 10/30/2002 OMB filed a comment.

*EPA ICR No. 2071.01;* National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles; in 40 CFR part 63, subpart OOOO; on 10/23/2002 OMB filed a comment.

#### Short Term Extensions

*EPA ICR No. 0234.07;* Performance Evaluation Studies on Water and Wastewater Laboratories; OMB No. 2080-0021; on 10/16/2002 OMB extended the expiration date through 01/31/2003.

*EPA ICR No. 0575.08;* Health and Safety Data Reporting: Submission of Lists and Copies of Health and Safety Studies; in 40 CFR part 716; OMB No. 2070-0004; on 10/30/2002 OMB extended the expiration date through 01/31/2003.

Dated: November 15, 2002.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 02-30259 Filed 11-27-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6635-4]

### Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564-7167 or <http://www.epa.gov/compliance/nepa/>. Weekly receipt of Environmental Impact Statements.

Filed November 18, 2002, through November 22, 2002, pursuant to 40 CFR 1506.9.

*EIS No. 020477, Draft Supplement, AFS, UT,* Griffin Springs Resource Management Project, New Information Contained in the Life History and Analysis of Endangered, Threatened, Candidate, Sensitive, and Management Indicator Species of Dixie National Forest, Escalante Range District, Garfield County, UT, Comment Period Ends: January 13, 2003, Contact: Kevin Schulkoski (435) 826-5400.

*EIS No. 020478, Draft EIS, AFS, WI,* Northwest Howell Project, Proposing to Harvest Timber; Maintain Wildlife Openings; Regenerate Aspen and Jack Pine Types; Implementation, Eagle River-Florence Ranger District, Chequamegon-Nicolet National Forest, Forest and Florence County, WI, Comment Period Ends: January 13, 2003, Contact: Shirley Frank (715) 528-4464.

*EIS No. 020479, Final EIS, AFS, NV,* Cave Rock Management Direction,



Implementation, Lake Tahoe Basin Management Unit, Douglas Count, NV, Wait Period Ends: December 30, 2002. Contact: John Maher (530) 573-2600.

*EIS No. 020480, DRAFT SUPPLEMENT, FAA, FL, Fort Lauderdale-Hollywood International Airport, Revised to the 2008 and 2015 Runway Use Assumption for the Proposed Project Alternative; Revisions to the Predicted Number of Residents Impacted by Noise for all Alternatives using 2000 Census Block Data or Field Inspection, Broward County, FL, Comment Period Ends: January 13, 2003, Contact: Virginia Lane (407) 812-6331 Ext 27.*

*EIS No. 020481, Final EIS, BLM, AK, Renewal of Federal Grant for the Trans-Alaska Pipeline System, Right-of-Way, Approval, AK, Wait Period Ends: December 30, 2002, Contact: Rob McWhorter (907) 257-1355. This document is available on the Internet at: <http://www.tapsrenewal.jpo.doi.gov>.*

*EIS No. 020482, Draft EIS, MMS, AL, MS, TX, FL, LA, Eastern Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales 189 (proposed for 2003) and 197 (proposed for 2005) Leasing Program: 2002-2007; Eastern Planning Area, Offshore Marine Environmental, Coastal Counties and Parishes of Texas, LA, MS, AL, and Northwestern FL, Comment Period Ends: January 24, 2003. Contact: Archie Melancon (703) 787-1547.*

*EIS No. 020483, Final EIS, AFS, MO, Rams Horn Project to Accomplish the Direction and Desired Conditions Identified in the Mark Twain National Forest, Land and Resource Management Plan, Houston/Rolla/Creek Ranger District, Phelps and Pulaski Counties, MO, Wait Period Ends: December 30, 2002. Contact: Mark Hamel (417) 967-4194. This document is available on the Internet at: <http://www.fs.fed.us/r9/marktwain/publications>.*

*EIS No. 220484, Final EIS, AFS, ID, The West Gold Creek Project, Forest Management Activities Plan, Implementation, Idaho Panhandle National Forests, Sandpoints Ranger District, Bonner County, ID, Wait Period Ends: December 30, 2002. Contact: Judy York (208) 265-6665. This document is available on the Internet at: <http://www.fs.fed.us/ipnf/eco/manage/nepa/index.html>.*

Dated: November 25, 2002.

**Joseph C. Montgomery,**  
*Director, NEPA Compliance Division, Office of Federal Activities.*  
[FR Doc. 02-30258 Filed 11-27-02; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7414-8]

### Draft Strategy for National Clean Water Industrial Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability of draft Strategy for National Clean Water Industrial Regulations.

**SUMMARY:** Under the Clean Water Act, EPA establishes national technology-based regulations, termed "effluent guidelines," to reduce pollutant discharges from industrial facilities to surface waters and publicly owned treatment works. Today, EPA is announcing the availability of its draft Strategy for National Clean Water Industrial Regulations. The draft Strategy describes a process to identify existing effluent guidelines that EPA should consider revising, and to identify any industrial categories for which the Agency should consider developing new effluent guidelines. EPA proposes to use this process to develop future Effluent Guidelines Program Plans, which EPA is required to publish under section 304(m) of the Clean Water Act every two years. The Agency welcomes comments on the draft Strategy and recommendations on industrial categories to be considered. In addition, EPA is announcing an Industrial Wastewater and Best Available Treatment Technologies Conference that it is co-sponsoring with Vanderbilt University.

**DATES:** Submit comments on the draft Strategy by February 27, 2003. A public meeting will be held on Wednesday, January 15, 2003. In addition, the Industrial Wastewater and Best Available Treatment Technology Conference will be held February 26-28, 2003.

**ADDRESSES:** Send comments to Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OW-2002-0020. Comments may also be submitted electronically or through hand delivery/courier. Follow the detailed instruction as provided in B.

An informational meeting for interested stakeholders will be held in the EPA East Building, Room 1153, 1201 Constitution Avenue, NW., Washington, DC.

The Industrial Wastewater and Best Available Treatment Technologies Conference will be held at the Nashville Marriott at Vanderbilt University, at 2555 West End Avenue, Nashville, TN, 37203.

**FOR FURTHER INFORMATION CONTACT:** Patricia Harrigan at (202) 566-1666 or [harrigan.patricia@epa.gov](mailto:harrigan.patricia@epa.gov), or Jan Matuszko at (202) 566-1035 or [matuszko.jan@epa.gov](mailto:matuszko.jan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### A. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW-2002-0020. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, N.W., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. To schedule an appointment to see docket materials, please call (202) 566-2426. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying.

2. *Electronic Access.* An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in docket identification number, OW-2002-0020.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information (CBI) and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket, but will be available only in



printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in A.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

## B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment

due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in Docket ID No. OW-2002-0020. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to [OW-docket@epa.gov](mailto:OW-docket@epa.gov), Attention Docket ID No. OW-2002-0020. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original and three copies of your comments and enclosures (including references) to: Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OW-2002-0020.

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. OW-2002-0020. Such deliveries are only accepted

during the Docket's normal hours of operation as identified in A.1.

## C. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

## Outline of This Notice

- I. Regulated Entities
- II. Legal Authority
- III. Background of the Effluent Guidelines Program
- IV. A Strategy for National Clean Water Industrial Regulations
- V. Solicitation of Stakeholder Recommendations
- VI. Public Meeting
- VII. Industrial Wastewater and Best Available Treatment Technologies Conference

## I. Regulated Entities

Today's draft Strategy for National Clean Water Industrial Regulations does not contain regulatory requirements. It presents a proposed process that identifies industrial categories for possible development or revision of effluent limitations guidelines and standards ("effluent guidelines"). A list of the 55 currently regulated industries is provided in the draft Strategy at appendix 1, which can be found on EPA's Web site at <http://www.epa.gov/guide/strategy>.

## II. Legal Authority

Today's document is published under the authority of section 301(d), 304(b), 304(g), 304(m), 306(b), 307(b) and 307(c) of the Clean Water Act (CWA), 33 U.S.C. 1311(d), 1314(b), 1314(g), 1314(m), 1316(b), 1317(b) & 1317(c).

### III. Background of the Effluent Guidelines Program

The CWA directs EPA to promulgate effluent limitations guidelines and standards for categories or subcategories of industrial point sources that, for most pollutants, reflect the level of pollutant control attained by the best available technologies economically achievable. See CWA sections 301(b)(2), 304(b), 306, 307(b), and 307(c). For point sources that introduce pollutants directly into the Nation's waters (*i.e.*, direct dischargers), the limitations promulgated by EPA are implemented through National Pollutant Discharge Elimination System (NPDES) permits. See CWA sections 301(a), 301(b), and 402. For sources that discharge to publicly owned treatment works (POTWs) (*i.e.*, indirect dischargers), EPA promulgates pretreatment standards that apply directly to those sources and are enforced by POTWs, which are backed by State and Federal authorities. See CWA sections 307(b) and (c). EPA has issued effluent guidelines for more than 50 industrial categories.

Section 304(m) of the CWA requires EPA to publish a plan every two years that consists of three elements. First, under section 304(m)(1)(A), EPA is required to establish a schedule for the annual review and revision of existing effluent guidelines in accordance with section 304(b). Section 304(b) specifies factors EPA must consider when promulgating effluent limitations guidelines for direct dischargers and directs EPA to revise such regulations as appropriate. Second, under section 304(m)(1)(B), EPA must identify categories of sources discharging toxic or nonconventional pollutants for which EPA has not published effluent limitations guidelines under section 304(b)(2) or new source performance standards (NSPS) under section 306. Finally, under section 304(m)(1)(C), EPA must establish a schedule for the promulgation of effluent limitations guidelines under section 304(b)(2) and NSPS for the categories identified under the second element (*i.e.* subparagraph (B)) not later than three years after being identified in the section 304(m) plan. Section 304(m) does not apply to pretreatment standards for indirect dischargers, which EPA promulgates pursuant to sections 307(b) and 307(c) of the CWA.

On October 30, 1989, Natural Resources Defense Council, Inc., and Public Citizen, Inc., filed an action against EPA in which they alleged, among other things, that EPA had failed to comply with CWA section 304(m).

The Plaintiffs and EPA agreed to a settlement of that action in a Consent Decree entered on January 31, 1992. The Consent Decree, as modified, established a schedule by which EPA would propose and take final action for eleven point source categories identified by name in the Decree, and for eight other point source categories identified only as new or revised rules, numbered 5 through 12. See Consent Decree pars. 2(a), 4(a), and 5(a). The Decree also established deadlines for EPA to complete studies of eleven point source categories. See Consent Decree, par. 3(a). The Consent Decree provides that the foregoing requirements shall be set forth in EPA's section 304(m) plans. See Consent Decree, pars. 3(a), 4(a), 5(a). The Consent Decree also provides that section 304(m) plans issued under the Decree that are consistent with its terms shall satisfy EPA's obligations under section 304(m) with respect to the publication of such plans. See Consent Decree, par. 7(b). The last date for EPA action under the Decree, as modified, is June 2004. EPA is currently on track to meet this last obligation, which will lead to the termination of the Consent Decree.

### IV. A Strategy for National Clean Water Industrial Regulations

The prospective end of the Consent Decree in 2004 offers EPA and interested stakeholders an excellent opportunity to evaluate the effluent guidelines program and to consider how national industrial regulations can best achieve the Nation's clean water goals and the requirements of the Clean Water Act in the years ahead. The draft Strategy outlines a process for developing a biennial plan that is designed to meet both the statutory requirements in section 304(m) of the Clean Water Act and the water quality challenges of the 21st century. The draft Strategy aims to reduce risk to human health and the environment, using the most effective tools available. It is intended to ensure that EPA's process for setting priorities in its effluent guidelines program is transparent. EPA is looking for ways that its Strategy can help spur the development of innovative technologies, promote multimedia pollution prevention, and expand the use of market-based incentives to improve the quality of our nation's waters. The draft Strategy is posted for review on EPA's web site at <http://www.epa.gov/guide/plan.html>. Section V of this notice solicits stakeholder comment on several key features of the strategy as well as the role of effluent guidelines in the national clean water program.

The draft Strategy was initially discussed in the notice for the Effluent Guidelines Program Plan for 2002/2003. See 67 FR 55012, 55013–14 (Aug. 27, 2002) (final plan); and 67 FR 41418–9, (June 18, 2002) (proposed plan). Several commenters supported EPA's goal to develop a strategy for future planning of the effluent guidelines program, and encouraged EPA to engage a broad range of stakeholders in the planning process.

### V. Solicitation of Stakeholder Recommendations

EPA requests comments about several specific issues discussed in the Strategy.

*Key Factors for Evaluating Existing Effluent Guidelines:* EPA identified four major factors, derived from sections 301(b)(2) and 304(b) of the CWA, that could lead EPA to conclude that a revision of an existing effluent guideline would be appropriate: (1) The extent to which the industry category is discharging pollutants that pose a risk to human health or the environment; (2) the identification of an applicable and demonstrated technology, process change, or pollution prevention approach that would substantially reduce the remaining risk; (3) the cost, performance, and affordability of the technology, process change, or pollution prevention approach that would substantially reduce that risk; and (4) implementation and efficiency considerations, such as whether revising a guideline is the most effective approach for reducing the risk. In addition, section 304(b) authorizes EPA to consider other factors as the Administrator deems appropriate. EPA requests comments on its proposed use of these factors, and invites the public to suggest additional or different factors.

The Agency is also interested to receive comments on whether each of the four factors identified above should be ranked, and if so, whether different weights should be applied to each. EPA also requests suggestions as to the information the Agency should use to prioritize industrial categories that pass both the primary and secondary screening reviews described in the draft Strategy.

*Key Factors for Developing New Effluent Guidelines:* EPA identified four major factors that could lead EPA to conclude that new national effluent guidelines regulations would be necessary and appropriate for industrial categories. These factors are identical to the factors discussed above with respect to the revision of existing effluent guidelines, and are derived from the same statutory bases. (The main difference is that an industry category with no existing guideline in place may

have greater variation in current discharges and pollutant reduction technologies in place. This depends on what technology-based limits permit writers have established using best professional judgment and what limits they have established to protect water quality.) These factors reflect Congress' expectation that EPA will address "significant amounts" of toxic pollutant discharges through national technology-based regulations. S. Rep. No. 50, 99th Cong., 1st Sess. 24–25 (1985). EPA requests comments on its proposed use of these factors and invites the public to identify other or different factors for EPA's consideration.

The Agency is also interested to receive comments on whether each of these factors should be ranked, and if so, whether different weights should be applied to each. EPA also requests suggestions as to the information the Agency should use to prioritize industrial categories that pass both the primary and secondary screening reviews described in the draft Strategy.

#### *Sources of Water Quality*

**Impairments:** An impaired water is one that does not achieve the water quality standards adopted by a State, Tribe, or EPA under CWA section 303(c). Building on ongoing work by EPA, States, Tribes, and others, the Agency is working to identify links between industrial sources of pollutants with pollutants identified as the causes of impairments in impaired waters. This effort links the categories of facilities discharging pollutants as identified in Agency's Permit Compliance System (PCS) database with types of impairments of water bodies identified using the U.S. Geological Survey's National Hydrography Dataset (NHD) and State and Tribal reported data from the reports generated under CWA sections 303(d) and 305(b). (Section 303(d) requires States to develop lists of waterbodies for which technology-based limitations and other requirements are not sufficient to ensure attainment of water quality standards. Section 305(b) requires States to report to EPA every other year on the quality of their waters.) EPA requests suggestions on other sources of relevant information, particularly data relating to facilities that discharge to publicly owned treatment works (POTWs).

**Voluntary Loading Reductions:** EPA is considering incentives for industrial categories to reduce pollutant loadings through voluntary programs. For example, EPA might determine to not develop new or revised effluent guidelines for source categories that demonstrate continual or substantial reduction of pollutants through

voluntary effluent reductions. Voluntary efforts should be encouraged and rewarded, so EPA is considering whether source categories that have accomplished voluntary pollutant discharge reductions should be given a lower priority for new or revised effluent guidelines.

EPA is also considering whether to indicate a quantitative voluntary reduction goal that source categories seeking a deferral of consideration for new or revised guidelines should try to achieve. EPA is considering a goal, suggested by a stakeholder, of a 10 percent reduction in total load, or in toxic-equivalent load over a five-year period (the standard permit term). EPA emphasizes that the goal would not be binding on either the Agency or the industry; EPA would retain the discretion to decide whether to develop an effluent guideline. EPA would consider voluntary load reductions on an industry-by-industry basis in making its planning decisions (and may make decisions irrespective of the general, non-binding goal). The Agency requests comment on this entire issue. EPA also invites comment on whether a different general goal, such as a 25 percent reduction in total or toxic-equivalent load, would be more appropriate.

EPA proposes to use information in the PCS system to identify categories for which loadings have decreased over the past 5 years, but requests suggestions on alternative sources of this information. EPA also invites comment on how it might assess voluntary pollutant reductions in industrial categories with increased production over five years. Finally, EPA invites comment on ways to evaluate claims of decreases in water loadings of toxicity relative to possible increases in release of these emissions to other environmental media, for example volatilization to air or land disposal of sludge.

**Technology Innovation, Market-based Incentives, and Multi-media Pollutant Reduction:** In addition to the above discussion of voluntary loading reductions, EPA seeks comment on others ways the Agency might structure the effluent guidelines program to encourage and reward technology innovation. EPA invites stakeholders to suggest industry categories for which development or revision of an effluent guideline may provide an opportunity for multi-media pollutant reduction. EPA also seeks comment on the role of market-based incentives, including pollutant trading, in the effluent guidelines program.

In addition, EPA encourages comments on the extent to which the Agency should consider multi-media

pollutant reduction opportunities in deciding which guidelines to develop or revise. For example, should the Agency assign greater weight to revising a guideline that has the opportunity to reduce the loading of 100 million pounds of nutrients into surface waters impaired by nutrient pollution, or one that might reduce nutrient loading by 80 million pounds but also reduce noxious odors and emissions of greenhouse gases?

**Level of Effort Devoted to Effluent Guidelines:** Since Congress passed the 1972 Clean Water Act, EPA has promulgated effluent guidelines that address over 50 industry categories. These regulations apply to between 35,000 and 45,000 facilities that discharge directly to the nation's waters, as well as another 12,000 facilities that discharge into publicly owned treatment works. These regulations are responsible for preventing the discharge of almost 700 billion pounds of pollutants each year.

In addition to the technology-based effluent guidelines program, EPA and the States implement a wide range of water-quality based programs also designed to protect and restore the Nation's waters. For example, the water quality standards adopted by all States, Territories and 20 authorized Tribes are the regulatory and scientific foundation for the Nation's water quality-based programs. Water quality standards are used to assess impairments in U.S. waters, to establish targets and load reductions needed in impaired waters through total maximum daily loads (TMDLs), and to set limits on pollutants through enforceable NPDES permits where technology-based limits are insufficient to protect water quality.

Under EPA and State permit programs, industrial discharge restrictions—in the form of technology-based and water-quality based effluent limitations—have controlled over 48,000 individual industrial facilities through the issuance of individual NPDES permits, and controlled thousands more through general permits. Fish are coming back, habitats are recovering, and many miles of formerly contaminated beaches are now safe for swimmers. However, we have not achieved water quality objectives in many water bodies. Many of the remaining pollutants come from sources that are not related to industrial discharges, such as non-point source runoff from agricultural lands, stormwater flows from cities, seepage into ground water from nonpoint sources, and loss of critical habitats such as wetlands.

One facet of EPA's overall approach to resolving the remaining water quality problems is the continued implementation of the national effluent guidelines program to address water quality problems associated with industrial dischargers. As EPA moves forward to address the remaining water quality problems, EPA invites comment on whether it should devote the same, less, or greater resources to the effluent guidelines program as it has in the past.

#### VI. Public Meeting

An important first step in the planning process is to consult with authorized States and Tribes, pretreatment control authorities, and professional associations to obtain their recommendations on revising existing effluent guidelines and identifying industries for new guidelines. These stakeholders can help identify water quality concerns related to industrial categories as well as changes in industries which affect the administration and effectiveness of existing regulations. EPA recognizes that there are other stakeholders who also may have concerns or data indicating the need for new or revised regulations, or revisions to EPA's draft Strategy.

Therefore, the Agency will hold a public meeting on Wednesday, January 15 from 9 a.m. to noon, to discuss the goals and the elements of the draft Strategy. This informational meeting will be held in the EPA East Building, Room 1153, 1201 Constitution Avenue, NW., Washington, DC. No registration is required for this meeting. If you need special accommodations at this meeting, please contact Pat Harrigan at (202) 566-1666 or [harrigan.patricia@epa.gov](mailto:harrigan.patricia@epa.gov) at least five business days before the meeting so that appropriate arrangements can be made.

For security reasons, we request that you bring photo identification with you to the meeting. Also, if you let us know in advance of your plans to attend, it will expedite the process of signing in. Seating will be provided on a first-come, first-served basis. Please note that parking is very limited in downtown Washington, and use of public transit is recommended. The EPA Headquarters complex is located near the Federal Triangle Metro station. Upon exiting the Metro station, walk east to 12th Street. On 12th Street, walk south to Constitution Avenue. At the corner, turn right onto Constitution Avenue and proceed to the EPA East Building entrance.

During the meeting, EPA will present an overview of the draft Strategy, including the factors the Agency expects

to consider and the cycle of steps involved in its application. EPA will also allow time for questions and answers during these sessions. The Agency also encourages participants to identify and provide supporting data and/or rationales on existing effluent guidelines that EPA should consider revising, or on any industrial categories for which the Agency should consider developing new effluent guidelines. This meeting is not a public hearing for the purpose of obtaining comment on the draft Strategy. EPA will not generate a transcript of the meeting. The public may submit written comments as described in the "How to Submit Comments" section above.

#### VII. Industrial Wastewater and Best Available Treatment Technologies Conference

EPA has established effluent limitation guidelines and pretreatment standards for more than 50 industries. (A list of the currently regulated industries is provided in the draft Strategy at appendix 1, which can be found on EPA's Web site at <http://www.epa.gov/guide/strategy>.) Over the last 30 years, these industries have accumulated much expertise and experience in wastewater treatment process design and operation to comply with these regulations. Vanderbilt University and the U.S. EPA are co-sponsoring a technical conference to provide a forum to share experiences with process design and regulatory compliance.

Representatives of academia, government, and industry are invited to convene to examine and discuss industry trends and technology advances as they affect regulatory compliance and sustainable growth. Participants will have the opportunity to both provide and obtain information on state of the art techniques for addressing their water pollution control activities. These may include improvements to traditional wastewater treatment processes as well as process changes and best management practices that lead to reductions in pollutant generation.

The BAT conference will be held from February 26 through February 28, 2003 at the Nashville Marriott at Vanderbilt University, located at 2555 West End Avenue, Nashville, Tennessee, 37203. Registration is required. More information, including registration and specific topics, is available at <http://frontweb.vuse.vanderbilt.edu/bat/>, or contact Jan Matuszko at (202) 566-1035 or e-mail her at [matuszko.jan@epa.gov](mailto:matuszko.jan@epa.gov).

Dated: November 22, 2002.

G. Tracy Mehan, III,

Assistant Administrator for Water.

[FR Doc. 02-30262 Filed 11-27-02; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7414-4]

### Draft Guidance For Evaluating The Vapor Intrusion to Indoor Air Pathway From Groundwater And Soils (Subsurface Vapor Intrusion Guidance)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** EPA is publishing a draft guidance addressing the evaluation of the "vapor intrusion pathway." The draft guidance is intended to provide a tool to help the user conduct a screening evaluation as to whether or not the vapor intrusion exposure pathway is complete and, if so, whether it poses an unacceptable risk to human health. It is not intended to provide recommendations for delineating extent of risk or eliminating risk.

**DATES:** Send your comments to reach us on or before February 27, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, by facsimile, or through hand delivery/courier. Send an original and two copies of your comments to: OSWER Docket, Environmental Protection Agency, Mailcode: 5305-G, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention Docket ID No. RCRA-2002-0033. Follow the detailed instructions as provided in section I.B.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at (800) 424-9346 (toll free) or call (703) 412-9810; or, for hearing impaired, call TDD (800) 553-7672 or TDD (703) 412-3323. For more information on specific aspects of this guidance, contact Henry Schuver, Office of Solid Waste (5303W), U. S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0002, (703) 308-8656, e-mail address: [schuver.henry@epa.gov](mailto:schuver.henry@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. How Can I Get Copies Of This Document And Other Related Information?

#### 1. Docket

EPA has established an official public docket for this action under Docket ID No. RCRA-2002-0033. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the OSWER Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for OSWER Docket is 202-566-0207. To view docket materials, you should call in advance and make an appointment. You may copy a maximum of 100 pages from any regulatory docket at no charge (unless the documents require copyright permission). Additional copies cost \$0.15 per page.

#### 2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public

docket but will be available only in printed, paper form in the official public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

### B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments, but will make every effort to do so if time and resources permit. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in section I.C. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

#### 1. Electronically

If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

#### i. EPA Dockets

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. RCRA-2002-0033. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

#### ii. E-mail

Comments may be sent by electronic mail (e-mail) to [RCRA-docket@epamail.epa.gov](mailto:RCRA-docket@epamail.epa.gov), Attention Docket ID No. RCRA-2002-0033. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

### iii. Disk or CD ROM

You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.B.2, below. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

### 2. By Mail

Send an original and two copies of your comments to: OSWER Docket, Environmental Protection Agency, Mailcode: 5305-G, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention Docket ID No. RCRA-2002-0033.

### 3. By Hand Delivery or Courier

Deliver your comments to: OSWER Docket, EPA West Building, Room B102, 1301 Constitution Avenue, NW, Washington DC, 20004, Attention Docket ID No. RCRA-2002-0033. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.A.1.

### 4. By Facsimile

Fax your comments to (703) 603-9234, Attention Docket ID No. RCRA-2002-0033.

### C. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: RCRA CBI Document Control Officer, Office of Solid Waste, Environmental Protection Agency, Mailcode 5305-W, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention Docket ID No. RCRA-2002-0033. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be

included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

### D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

### II. Summary

The draft guidance (Evaluating the Vapor Intrusion to Indoor Air Pathway From Groundwater and Soils) examines a single exposure pathway—the “vapor intrusion pathway.” It is intended to be a screening tool to aid users in determining whether a vapor intrusion pathway is complete and, if so, whether the completed pathway poses an unacceptable risk to human health. A complete pathway means that humans are exposed to vapors originating from site contamination. The draft guidance begins with simple and generally reasonable conservative screening approaches and gradually progresses toward a more complex assessment involving increasingly greater use of site-specific data. For those sites determined to have an incomplete vapor intrusion pathway, further consideration of the current site situation generally should not be needed. For those sites determined to have a complete pathway, guidance is provided to evaluate whether the pathway does or does not pose a potential significant risk to human health.

This draft guidance is not intended to provide recommendations to delineate

the extent of risk or eliminate the risk. Its sole purpose is to determine if there is a potential for an unacceptable risk. EPA generally recommends reevaluation of those sites that are screened-out if site conditions or land use changes in a way that might alter a decision to screen-out, or other new information suggests greater conservatism is appropriate in assessing the vapor intrusion pathway.

Because this is a draft guidance document, not a regulation, it is not subject to the notice and comment requirements of the Administrative Procedure Act. Nonetheless, EPA is choosing, in its discretion, to solicit comments on the document in the interest of developing the most accurate, useful guidance document.

### III. At What Sites Are We Currently Suggesting You Use This Guidance?

EPA suggests that you use this draft guidance at RCRA Corrective Action, CERCLA (National Priorities List and Superfund Alternative Sites), and Brownfields sites, but, at this time, we do not recommend it for use at Subtitle I Underground Storage Tank (UST) sites.

We recommend that State and Regional UST corrective action programs continue to use a risk-based decision making approach as described in OSWER Directive 9610.17: Use of Risk-Based Decision Making in UST Corrective Action Program to address this pathway at UST sites.

### IV. Data Evaluation

Vapor intrusion is a rapidly developing field of science and policy and this draft guidance is intended to aid in evaluating the potential for human exposure from this pathway given the state-of-the-science at this time. EPA will continue to explore this area in efforts to improve the state-of-the-science of this complex exposure pathway. A workgroup of EPA and State representatives is currently being organized to evaluate this pathway over the next several years. As the state-of-the-science improves, this guidance will be revised as appropriate. EPA and State site managers are encouraged to contact EPA's Office of Solid Waste (OSW) to join the workgroup and/or provide the workgroup with relevant site information that can be added to the Office of Solid Waste and Emergency Response (OSWER) database to facilitate these efforts.

### V. Will This Draft Guidance Supersede Existing Guidance?

This draft guidance supersedes the draft RCRA EI Supplemental Guidance for Evaluating the Vapor Intrusion to

Indoor Air Pathway (December 2001). It does not supersede State guidance. However, EPA believes that States will find this guidance useful and anticipates that States will consider this draft guidance when evaluating the vapor intrusion pathway. Additionally, the lead regulatory authority for a site may determine that criteria other than those recommended in this draft guidance are more appropriate for the specific site or area. For example, site-specific indoor air criteria may differ from the generic indoor air criteria generally recommended in this guidance and, consequently, the corresponding soil gas or groundwater screening levels may differ. Also, the site-specific relationship between indoor air concentrations and subsurface soil gas or groundwater concentrations may differ from that assumed in developing this guidance. Therefore, we suggest that the first step generally should be to consult with the lead regulatory authority to identify the most appropriate approach for evaluation of any potential vapor intrusion to indoor air pathway.

#### VI. When Do We Recommend You Start Using This Draft Guidance?

EPA recommends that you consider the use of this draft guidance now.

Although the document is still in draft and EPA is requesting comment on it, it has gone through extensive internal and inter-agency review, and we believe it is a technically sound product. While we hope to receive useful comments that will result in improvements when the draft is finalized, we believe the document in its current state provides the best guidance and information currently available on these issues.

Please recognize that this is a guidance document, not a regulation. This document presents current technical and policy recommendations of the Office of Solid Waste and Emergency Response, based EPA's current understanding of the subsurface vapor intrusion. EPA personnel (and of course, states) are free to use and accept other technically sound approaches, either on their own initiative, or at the suggestion of responsible parties or other interested parties. In addition, personnel who use this guidance document are free to modify the approach recommended in this guidance. This guidance document does not impose any requirements or obligations on EPA, states, or the regulated community. Rather, the sources of authority and requirements for addressing subsurface vapor intrusion are the relevant statutes and

regulations (e.g., RCRA, CERCLA and the NCP).

Dated: November 22, 2002.

**Marianne Lamont Horinko,**

*Assistant Administrator, Office of Solid Waste and Emergency Response.*

[FR Doc. 02-30261 Filed 11-27-02; 8:45 am]

**BILLING CODE 6560-50-P**

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

#### Agency Information Collection Activities: Submission for OMB Review; Final Comment Request

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final Notice of Submission for OMB Review Employer Information Report (EEO-1).

**SUMMARY:** In accordance with the Paperwork Reduction act of 1995, the Equal Employment Opportunity Commission (EEOC) announces that it is submitting to the Office of Management and Budget (OMB) a request for a one-year extension of the existing collection as described below. A notice that the EEOC would be submitting this request was published in the **Federal Register** on September 9, 2002, allowing for a 60-day public comment period. Four comments were received.

**DATES:** Written comments on this notice must be submitted on or before December 30, 2002.

**ADDRESSES:** Comments should be submitted to Karen Lee, Policy Analyst, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, or e-mail at [KFLEE@OMB.EOP.GOV](mailto:KFLEE@OMB.EOP.GOV). Comments may also be sent to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663-4114. (This is not a toll-free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittal will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TDD). (These are not toll-free telephone numbers.) Copies of

comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street, NW., Washington, DC 20507 between the hours of 9:30 a.m. and 5 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Joachim Neckere, Director, Program Research and Surveys Division, 1801 L Street, NW., Room 9222, Washington, DC 20507: (202) 663-4958 (voice) or (202) 663-7063 (TDD).

**SUPPLEMENTARY INFORMATION:** The Commission solicits public comment to enable it to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Four comments were received from associations of employers and human resources organizations in response to the September 9, 2002 notice. The comments supported the EEOC's request for a one-year extension of the current information collection.

#### Overview of This Information Collection

**Collection Title:** Employer Information Report (EEO-1).

**OMB Number:** OMB Number 3046-0007.

**Frequency of Report:** Annual

**Type of Respondent:** Private employees and certain federal government contractors and first-tier subcontractors with 50 or more employees.

**Description of Affected Public:** Private industry employers and businesses, private institutions, organizations and farms.

**Reporting Hours:** 402,700.

**Federal Cost:** \$1.3 million.

**Number of Forms:** 1.

**Abstract:** Section 709(c) of the Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), requires employers to make and keep records



relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the EEOC. Accordingly, the EEOC has issued regulations set forth in Title 29, Chapter XIV, Subpart B, § 1602.7. Employers in the private sector with 100 or more employees and some federal contractors with 50 or more employees have been required to submit EEO-1 reports annually since 1966. The individual reports are confidential.

EEO-1 data are used by EEOC to investigate charges of employment discrimination against employers in private industry and to provide information and the employment status of minorities and women. The data are shared with the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, and several other federal agencies. Pursuant to Section 709(d) of title VII of the Civil Rights Act of 1964, as amended, EEO-1 data are also shared with 86 State and Local Fair Employment Practices Agencies (FEPAs).

**Burden Statement:** The estimated number of respondents included in the annual EEO-1 reports survey is 45,000 private employers. The estimated number of responses per respondent is between 3 and 4 EEO-1 reports. The annual number of responses is approximately 170,000 and the total annual burden is 402,700 hours. In order to help reduce survey burden, respondents are encouraged to report data on such electronic media as interactive diskettes or magnetic tapes.

Dated: November 21, 2002.

For the Commission.

**Cari M. Dominguez,**  
Chair.

[FR Doc. 02-30171 Filed 11-27-02; 8:45 am]

BILLING CODE 6570-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

November 20, 2002.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor a collection

of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number.

Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before January 28, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1-C804 or Room 1-A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Judith Boley Herman at 202-418-0214 or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

#### SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060-XXXX.

Title: Potential Reporting

Requirements on ILECs to Assist Expedient Implementation of Wireless E911 Service.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 6.

Estimated Time Per Response: 8 hours.

Frequency of Response: On occasion reporting requirement, one to four times annually, third party disclosure requirement.

Total Annual Burden: 48-195 hours.

Total Annual Cost: N/A.

Needs and Uses: If adopted, the Commission would approach possibly six of the nation's Incumbent Local Exchange Carriers (ILECs) for information regarding the status of their efforts in connection with wireless enhanced 911 deployment. The six parties could be asked to file

information between once and four times annually. The information would be used by the Commission to track 911 deployment progress and to assist all affected parties involved in the implementation process, including Commercial Mobile Radio Service licensees, Public Safety Answering Points (PSAPs), and third party vendors. The Commission will publish in the **Federal Register** a summary of any decision made entailing this PRA burden.

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary.

[FR Doc. 02-30165 Filed 11-27-02; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

November 15, 2002.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Persons wishing to comment on this information collection should submit comments by January 28, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of



time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Judy Boley Herman, Federal Communications Commission, 445 12th Street, SW., Room 1-C804, Washington, DC 20554 or via the internet to [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Judy Boley Herman at 202-418-0214 or via the internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060-0242.

*Title:* Section 74.604, Interference Avoidance.

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for profit.

*Number of Respondents:* 1.

*Estimated Time Per Response:* 2 hours.

*Frequency of Response:* On occasion reporting requirement.

*Total Annual Burden:* 2 hours.

*Annual Reporting and Recordkeeping Cost Burden:* \$1,000.

*Needs and Uses:* Section 74.604 requires that the Commission be notified if a mutual agreement to avoid interference cannot be reached by licensees assigned a common channel for TV pickup, TV studio transmitter link or TV relay purposes in the same area. Data used by FCC staff to take such action as may be necessary to assure equitable distribution of available frequencies.

*OMB Control No.:* 3060-0347.

*Title:* Section 97.311, Spread Spectrum (SS) Emission Types.

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Individuals or households.

*Number of Respondents:* 10.

*Estimated Time Per Response:* .017 hours (1 minute).

*Frequency of Response:* Recordkeeping requirement.

*Total Annual Burden:* 1 hour.

*Annual Reporting and Recordkeeping Cost Burden:* N/A.

*Needs and Uses:* The recordkeeping requirement contained in § 97.311 is necessary to document all spread spectrum (ss) transmissions by amateur radio operators. This requirement is necessary so that quick resolution of any harmful interference problems can be achieved and to ensure that the station is operating in accordance with the Communications Act of 1934, as amended. The information is used by

FCC staff during inspection and investigations to ensure compliance with applicable rules, statutes and treaties. In the absence of this recordkeeping requirement, field inspections and investigations related to the solution of cases of harmful interference would be severely hampered and needlessly prolonged due to the inability to quickly obtain vital information used to demodulate spread spectrum transmissions.

*OMB Control No.:* 3060-0648.

*Title:* Section 21.902, Frequency Interference.

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for profit.

*Number of Respondents:* 1,824.

*Estimated Time Per Response:* .25-1.5 hours.

*Frequency of Response:* On occasion reporting requirement, third party disclosure requirement.

*Total Annual Burden:* 456 hours.

*Annual Reporting and Recordkeeping Cost Burden:* \$491,000.

*Needs and Uses:* Section 21.902(b)(5) requires that respondents engineer the Multipoint Distribution Service (MDS) station to limit the calculated free space power flux density at the boundary of the protected service area (PSA). As an alternative, the respondent may obtain the written consent of the entity authorized for the adjoining area when the calculated free space power flux density exceeds the standards. Section 21.902(g)(2) requires applicants with 35 miles PSA to notify in writing the holders of authorizations for adjoining basic trading areas (BTAs) or PSAs of application filings for modified station licenses, provided the proposed facility would produce an unobstructed signal path to any location within the adjoining BTA or PSA. This service must include a copy of the application and occur on or before the date the application is filed with the Commission. Section 21.902(i) requires each applicant for a new station or modified MDS station, or amendment thereof, to provide notice of its application to co-channel and adjacent-channel authorized ITFS stations within 50 miles. The ITFS study must be prepared and served on the affected ITFS station, but is not required to be filed as part of the MDS application. Each applicant is required to file a written notice with the Commission before the 30th day after the applicant or amendment is initially filed with the Commission. This notice must contain the items specified in § 21.902(i)(4).

Section 21.902(i)(6) requires that a petition to deny filed by an ITFS licensee contain specific information.

The data are used to ensure that no harmful interference is caused to other authorized stations.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02-30166 Filed 11-27-02; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

November 18, 2002.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before January 28, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1-C804 or Room 1-A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Judith Boley Herman at 202-418-0214 or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060-0241.

*Title:* Temporary Authorizations.

*Form No.:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit, not-for-profit institutions, and state, local and tribal government.

*Number of Respondents:* 145.

*Estimated Time Per Response:* 1.25-3 hours.

*Frequency of Response:* On occasion reporting requirement.

*Total Annual Burden:* 157 hours.

*Total Annual Cost:* \$63,000.

*Needs and Uses:* The Commission is revising this collection to incorporate three other "temporary authorizations" which currently have OMB approval into one collection. They are OMB Control Numbers 3060-0245, 3060-0251, and 3060-0254. Otherwise there is no change or revision to any of these information collections. Upon OMB approval of 3060-0241, the Commission will cancel the other collections. Temporary authorizations are used by the Commission to ensure that interference will not be caused to other established stations and to ensure compliance with current FCC rules and regulations.

*OMB Control No.:* 3060-0240.

*Title:* Equipment Changes.

*Form No.:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit, not-for-profit institutions, and state, local and tribal government.

*Number of Respondents:* 36.

*Estimated Time Per Response:* .50-1 hour(s).

*Frequency of Response:* On occasion reporting requirement.

*Total Annual Burden:* 24 hours.

*Total Annual Cost:* \$1,000.

*Needs and Uses:* The Commission is revising this collection to incorporate two other "equipment changes" which currently have OMB approval into one collection. They are OMB Control Numbers 3060-0243 and 3060-0246. Otherwise there is no change or revision to any of these information collections. Upon OMB approval of 3060-0240, the Commission will cancel the other collections. Equipment changes are used by the Commission to maintain complete technical records regarding the licensee's facilities and to ensure compliance with current FCC rules and regulations.

*OMB Control No.:* 3060-0690.

*Title:* Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands.

*Form No.:* FCC Form 415 and 415-T.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 5,000.

*Estimated Time Per Response:* .50-20 hours.

*Frequency of Response:* On occasion reporting requirement.

*Total Annual Burden:* 75,625 hours.

*Total Annual Cost:* \$5,000,000.

*Needs and Uses:* The collection of information is necessary because of the requirements regarding the above-referenced frequency bands. The information is used by the Commission staff to provide adequate point-to-point microwave spectrum, which will facilitate provision of communications infrastructure for commercial and private mobile radio operations and competitive wireless local telephone service. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02-30167 Filed 11-27-02; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Notices

*Date and Time:* Tuesday, December 5, 2002 at 10 a.m.

*Place:* 999 E Street, NW., Washington, DC.

*Status:* This meeting will be closed to the public.

*Items to be Discussed:*

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

\* \* \* \* \*

*Date and Time:* Thursday, December 7, 2002 at 10 a.m.

*Place:* 999 E Street, NW., Washington, DC (Ninth Floor).

*Status:* This meeting will be closed to the public.

*Items to be Discussed:*

Correction and approval of minutes.

A plan for implementing the 2002 Voting System Standards.

*Final Audit:* Buchanan Foster, Inc.

*Final Audit:* Gore 2000, Inc. (Primary).

*Final Audit:* Gore/Lieberman, Inc. and Gore/Lieberman General Election Legal and Accounting Compliance Fund (General).

*Draft Advisory Opinion 2002-12:*

American Medical Security, Inc. by counsel, Brady C. Williamson and Mike B. Wittenwyler.

Final rules and explanation and justification on Coordinated and Independent Expenditures.

Administrative matters.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron Harris, Press Officer, Telephone: (202) 694-1220.

**Mary W. Dove,**

*Secretary of the Commission.*

[FR Doc. 02-30497 Filed 11-26-02; 3:04 pm]

**BILLING CODE 6715-01-M**

## FEDERAL LABOR RELATIONS AUTHORITY

**[FLRA Docket No. WA-RP-90035]**

### Notice of Opportunity To Submit Amicus Curiae Briefs in a Representation Proceeding Pending Before the Federal Labor Relations Authority

**AGENCY:** Federal Labor Relations Authority.

**ACTION:** Notice of the opportunity to file briefs as amici curiae in a proceeding before the Federal Labor Relations Authority in which the Authority is determining whether certain employees who perform security work should be excluded from a bargaining unit on the ground that this work "directly affects national security" within the meaning of 5 U.S.C. 7112(b)(6).

**SUMMARY:** The Federal Labor Relations Authority provides an opportunity for all interested persons to file briefs as amici curiae on a significant issue in a case pending before the Authority. The Authority is considering the case pursuant to its responsibilities under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101-7135 (the Statute) and its regulations, 5 CFR part 2422. The issue concerns the bargaining unit eligibility of employees performing security work.

**DATES:** Briefs submitted in response to this notice will be considered if received by mail or personal delivery in the Authority's Case Control Office by 5 p.m. on December 30, 2002. Placing submissions in the mail by this deadline

will not be sufficient. Extensions of time to submit briefs will not be granted.

**Format:** All briefs shall be captioned "*Social Security Administration, Baltimore, Maryland*, Case No. WA-RP-90035." Parties must submit five copies, one of which must contain an original signature, of each amicus brief, on 8½ by 11 inch paper. Briefs must include a signed and dated statement of service that complies with the Authority's regulations showing service of one copy of the brief on all counsel of record or other designated representatives. 5 CFR 2429.27(a) and (c).

The designated representatives in *Social Security Administration, Baltimore, Maryland*, Case No. WA-RP-90035 are Cathy Six, Agency Representative, Office of Labor-Management and Employee Relations, Social Security Administration, 6401 Security Boulevard, Room G-F-10, WHR, Baltimore, MD 21235-6401; Michael J. Snider, Union Representative, AFGE, Local 1923, Room 1-J-21, Operations Building 6401 Security Boulevard, Baltimore, MD 21235; Barbara S. Liggett, Acting Regional Director, Federal Labor Relations Authority, 800 K Street, NW., Suite 910, Washington, DC 20001.

**ADDRESSES:** Mail or deliver briefs to Gail D. Reinhart, Director, Case Control Office, Federal Labor Relations Authority, 607 14th St. NW., Room 415, Washington, DC 20424-0001.

**FOR FURTHER INFORMATION CONTACT:** Gail D. Reinhart, Director, Case Control Office, Federal Labor Relations Authority, (202) 482-6540.

**SUPPLEMENTARY INFORMATION:** On November 1, 2002, in 58 FLRA No. 42, the Authority granted, in part, an application for review of the Acting Regional Director's Decision and Order in *Social Security Administration, Baltimore, Maryland*. A summary of the case follows. Copies of the Authority's complete decision may be obtained by telephoning Gail D. Reinhart at the number listed above.

### A. Background

American Federation of Government Employees, AFL-CIO (Union), filed a petition seeking to clarify the bargaining unit to include certain employees of the Social Security Administration, Baltimore, MD (the Agency) who work as Physical Security Specialists and Electronics Technicians. During the processing of this petition, the Agency asserted that the employees should be excluded from the bargaining unit under section 7112(b)(6) of the Statute. The employees develop and implement security operation procedures for the

Agency's facilities. Section 7112(b)(6) provides, as relevant here, that a bargaining unit is not appropriate if it includes any employee engaged in "security work which directly affects national security[.]"

### B. The Acting Regional Director's Decision

The Acting Regional Director determined that the disputed positions were not excluded from the proposed unit under section 7112(b)(6) of the Statute because, although the employees were engaged in "security work" within the meaning of section 7112(b)(6) of the Statute, the security work performed by them does not "directly affect[] national security" within the meaning of section 7112(b)(6) of the Statute. Therefore, she concluded that the employees in the disputed positions were not excluded from the bargaining unit.

### C. The Application for Review

The Agency filed the application for review, contending that review of the Acting Regional Director's decision is warranted under 5 CFR 2422.31(c), because the decision raises an issue for which there is an absence of precedent.

### D. Question on Which Briefs Are Solicited

In *Social Security Administration, Baltimore, Maryland*, the Authority granted the application for review under 5 CFR 2422.31(c) and directed the parties to file briefs addressing whether, and how, the security work performed by the incumbents of the (1) Physical Security Specialist, GS-080-11 (Position Description #8B349); (2) Physical Security Specialist, GS-080-11 (Position Description #8B356); and (3) Electronics Technician, GS-856-11 positions "directly affects national security" as that phrase is defined in *Dep't of Energy, Oak Ridge Operations, Oak Ridge, Tenn.*, 4 FLRA 644, 655-56 (1980). (To better comport with the terms of the Statute, this question is slightly modified from the questions asked in the original decision.)

Because this issue is likely to be of concern to the federal sector labor-management relations community in general, the Authority finds it appropriate to provide for the filing of amicus briefs addressing this question.

Dated: November 25, 2002.

For the Authority.

**Gail D. Reinhart,**

*Director, Case Control Office.*

[FR Doc. 02-30313 Filed 11-27-02; 8:45 am]

**BILLING CODE 6227-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60 Day-03-15]

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404)498-1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Project:** Data collection on Attention Deficit Hyperactivity Disorder (ADHD)—New—National Center for Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC). This project will collect data from proxy respondents on children ages 4 to 10 with and without ADHD. This program addresses the Healthy People 2010 focus area of Mental Health and Mental Disorders, and describes the prevalence, treated prevalence, select co-morbid conditions, secondary conditions, and health risk behavior of ADHD.

### Background

The purpose of this program is to support research in ADHD and the exploration of other health conditions and health risk behaviors to children with the disorder. The main objectives of the project are to determine the prevalence or treated prevalence of

children with ADHD in a defined community; to identify rates of select co-morbid or secondary conditions in children with ADHD in a defined

community; to identify types and rates of health risk behaviors in children with ADHD; and to describe current and previous receipt of treatment in children

with ADHD. There is no cost to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Backpack Survey .....	22,000	1	15/60	5,500
Teacher Survey .....	734	1	8/60	98
Parent Phone Interview .....	2324	1	105/60	4,067
Case Validity .....	100	1	3	300
Health Risk Behavior .....	2324	1	30/60	1,162
Total .....	.....	.....	.....	11,127

Dated: November 18, 2002.

**Nancy E. Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 02-30200 Filed 11-27-02; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Request for Nominations of Candidates To Serve on the National Vaccine Advisory Committee, Department of Health and Human Services

The Public Health Service (PHS) is soliciting nominations for possible membership on the National Vaccine Advisory Committee (NVAC). This committee studies and recommends ways to encourage the availability of an adequate supply of safe and effective vaccination products in the States; recommends research priorities and other measures the Director of the National Vaccine Program should take to enhance the safety and efficacy of vaccines; advises the Director of the Program in the implementation of sections 2102, 2103, and 2104, of the PHS Act; and identifies annually for the Director of the Program the most important areas of government and non-government cooperation that should be considered in implementing sections 2102, 2103, and 2104, of the PHS Act.

Nominations are being sought for individuals engaged in vaccine research or the manufacture of vaccines or who are physicians, members of parent organizations concerned with immunizations, or representatives of State or local health agencies, or public health organizations. Federal employees will not be considered for membership.

Members may be invited to serve a four-year term.

Close attention will be given to minority and female representation; therefore nominations from these groups are encouraged.

The following information is requested: Name, affiliation, address, telephone number, and a current curriculum vitae. Nominations should be sent, in writing, and postmarked by December 31, 2002, to: Gloria Sagar, Committee Management Specialist, NVAC, National Vaccine Program Office, Centers for Disease Control and Prevention, 4770 Buford Highway, M/S K-77, Chamblee, Georgia 30341. Telephone and facsimile submission cannot be accepted.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 21, 2002.

**John Burckhardt,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 02-30159 Filed 11-27-02; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Center for Medicare and Medicaid Services

[Document Identifier: CMS-10076]

#### Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

**AGENCY:** Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Center for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. This is necessary to ensure compliance with an initiative of the Administration. We cannot reasonably comply with the normal clearance procedures because of an unanticipated event and possible public harm.

The Administration identified that Medicare program authority to assist beneficiaries could be linked to emerging opportunities in the private sector to make prescription drugs more affordable to consumers. Through educating Medicare beneficiaries about

these opportunities and assisting them in identifying prescription discount card programs that are reputable and offer quality customer service, these beneficiaries can reduce their out-of-pocket expenditures for drugs substantially. Further, we believe under this initiative that beneficiaries will be more compliant with prescription drug treatment plans and consequently will make more optimal use of their Medicare-covered services. This initiative is consistent not only with the Secretary's duty under the Medicare program to educate beneficiaries, but is also consistent with the Secretary's duties under the Social Security Act to effectuate the purposes of the Medicare program.

This collection of information is structured on the requirements already articulated in the final rule entitled, "Medicare-Endorsed Prescription Drug Card Assistance Initiative", published on September 4, 2002 (67 FR 56618).

CMS is requesting OMB review and approval of this collection by January 7, 2003, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below by December 13, 2002. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

*Type of Information Collection Request:* New collection.

*Title of Information Collection:* Medicare-Endorsed Prescription Drug Card Assistance Initiative.

*Form No.:* CMS-10076 (OMB# 0938-NEW).

*Use:* CMS is soliciting applications from prescription discount card programs so that it may endorse qualifying programs for Medicare beneficiaries. CMS, on its website, and the endorsed programs, on request, will make information available for Medicare beneficiaries to use to compare the programs for possible enrollment in one of them.

*Frequency:* Annually, bi-annually, monthly.

*Affected Public:* Business or other for-profit, Not-for-profit institutions.

*Number of Respondents:* 15.

*Total Annual Responses:* 15.

*Total Annual Hours:* 5,444.

## Background

The Centers for Medicare and Medicaid Services (CMS) is seeking applications from qualified entities

interested in entering into a Medicare endorsement agreement for their prescription discount card program. The general purpose of this Medicare endorsement agreement will be to publicize information that allows Medicare beneficiaries to compare prescription drug discount cards, assist Medicare beneficiaries in understanding and accessing private market methods for securing discounts on the purchase of prescription drugs, and raise beneficiary awareness of prescription drug discount card programs available in the commercial market.

Approximately 9 million Medicare beneficiaries are without drug coverage at any point in a year. We expect this initiative will help beneficiaries, particularly those who lack prescription drug coverage, understand how drug discount card programs can lower beneficiary out-of-pocket prescription drug expenses. Further, we believe under this initiative that beneficiaries will be more compliant with prescription drug treatment plans and consequently will make more optimal use of their Medicare-covered services. This effort is not, in any way, an offer of a Medicare-reimbursed drug benefit.

Readers can find the application for this initiative on the Web site listed below. It is the final version subject to OMB approval.

We have submitted a copy of this notice to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at <http://cms.hhs.gov/regulations/prr/default.asp>, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@hcfa.gov](mailto:Paperwork@hcfa.gov), or call the Reports Clearance Office on (410) 786-1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and record keeping requirements must be mailed and/or faxed to the designees referenced below, by December 13, 2002:

OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503, Fax: 202-395-6974,

And,  
CMS, Office of Strategic Operations and Regulatory Affairs, Division of

Regulations Development and Issuances, Attention: Julie Brown, Room C5-16-03, 7500 Security Boulevard, Baltimore, Maryland 21244-1850, Fax: 410-786-3064.

Dated: November 20, 2002.

**John P. Burke, III,**

*Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.*

[FR Doc. 02-30367 Filed 11-27-02; 8:45 am]

BILLING CODE 4120-03-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 02N-0280]

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Filing Objections and Requests for a Hearing on a Regulation or Order

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments on the collection of information by December 29, 2002.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4659.

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Filing Objections and Requests for a Hearing on a Regulation or Order (OMB Control Number 0910-0184)—Extension

The provision in 21 CFR 12.22, issued under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)), sets forth the instructions for

filing objections and requests for a hearing on a regulation or order under § 12.20(d) (21 CFR 12.20(d)). Objections and requests must be submitted within the time specified in § 12.20(e). Each objection, for which a hearing has been requested, must be separately numbered and specify the provision of the regulation or the proposed order. In addition, each objection must include a detailed description and analysis of the factual information and any other

document, with some exceptions, supporting the objection. Failure to include this information constitutes a waiver of the right to a hearing on that objection. FDA uses the description and analysis to determine whether a hearing request is justified. The description and analysis may be used only for the purpose of determining whether a hearing has been justified under 21 CFR 12.24 and do not limit the evidence that may be presented if a hearing is granted.

Respondents to this information collection are those parties that may be adversely affected by an order or regulation.

In the **Federal Register** of July 8, 2002 (67 FR 45125), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN<sup>1</sup>

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
12.22	10	1	10	20	200

<sup>1</sup> There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimate for this collection of information is based on past filings. Agency personnel responsible for processing the filing of objections and requests for a public hearing on a specific regulation or order, estimate approximately 10 requests are received by the agency annually, with each requiring approximately 20 hours of preparation time.

Dated: November 21, 2002.

**Margaret M. Dotzel,**

*Assistant Commissioner for Policy.*

[FR Doc. 02–30157 Filed 11–27–02; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Radiological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

*Name of Committee:* Radiological Devices Panel of the Medical Devices Advisory Committee.

*General Function of the Committee:* To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time:* The meeting will be held on December 10, 2002, from 8:30 a.m. to 5 p.m.

*Location:* Gaithersburg Holiday Inn, Walker/Whetstone Rooms, Two

Montgomery Village Ave., Gaithersburg, MD.

*Contact Person:* Robert J. Doyle, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1212, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12526. Please call the Information Line for up-to-date information on this meeting.

*Agenda:* The committee will discuss, make recommendations, and vote on a premarket approval application for a device that produces a computerized thermal image of the breast of women recommended for biopsy.

Background information, including the agenda and questions for the committee, will be available to the public one business day before the meeting, on the Internet at <http://www.fda.gov/cdrh/panelmtg.html>. Material will be posted on December 9, 2002.

*Procedure:* On December 10, 2002, from 8:30 a.m. to 12:30 p.m., and from 1 p.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by December 3, 2002. On December 10, 2002, oral presentations from the public will be scheduled between approximately 9:15 a.m. and 9:45 a.m., and for an additional 30 minutes near the end of the committee deliberations. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before December 3, 2002, and

submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

*Closed Committee Deliberations:* On December 10, 2002, from 12:30 p.m. to 1 p.m., the meeting will be closed to the public to permit FDA to present to the committee trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)) regarding pending and future agency issues.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Shirley Meeks, Conference Management Staff, at 301–594–1283, ext. 105, at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 21, 2002.

**William K. Hubbard,**

*Associate Commissioner for Policy and Planning.*

[FR Doc. 02–30158 Filed 11–27–02; 8:45 am]

**BILLING CODE 4160–01–S**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration**

[Docket No. 02D-0467]

**"Guidance for Industry: Recommendations for the Assessment of Donor Suitability and Blood and Blood Product Safety in Cases of Known or Suspected West Nile Virus Infection;" Availability****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a document entitled "Guidance for Industry: Recommendations for the Assessment of Donor Suitability and Blood and Blood Product Safety in Cases of Known or Suspected West Nile Virus Infection" dated October 2002. The guidance document provides recommendations for assessing donor suitability and product safety for donors diagnosed with West Nile Virus (WNV) infections or with illnesses potentially caused by WNV. The guidance applies to Whole Blood and blood components intended for use in transfusion and blood components including recovered plasma, Source Leukocytes, and Source Plasma intended for use in further manufacturing into injectable or non-injectable products. These recommendations are intended to reduce the risk of transfusion transmitted WNV, particularly in areas where human cases are occurring.

**DATES:** Submit written or electronic comments on agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of this guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1-800-835-4709 or 301-827-1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance document to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Submit electronic comments to <http://www.fda.gov/dockets/ecomments>.

**FOR FURTHER INFORMATION CONTACT:**

Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM-17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-6210.

**SUPPLEMENTARY INFORMATION:****I. Background**

FDA is announcing the availability of a document entitled "Guidance for Industry: Recommendations for the Assessment of Donor Suitability and Blood and Blood Product Safety in Cases of Known or Suspected West Nile Virus Infection" dated October 2002. To address the possible risk of transmission of WNV by blood transfusion, we are providing recommendations for donor deferral, and for product quarantine and retrieval related to reports of post-donation illnesses in the donor, or WNV infection in recipients of blood. We are continuing to consult with experts on WNV at the Centers for Disease Control and Prevention (CDC) and elsewhere to ensure the greatest possible safety of the blood supply. In addition, epidemiologic and laboratory investigations are rapidly evolving. We will evaluate promptly any new data or experiences related to this issue and provide further updates as appropriate. FDA developed the recommendations in the guidance with other Public Health Service agencies of the Department of Health and Human Services.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This guidance document represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

**II. Comments**

The agency is soliciting public comment, but is implementing this guidance immediately because of public health concerns related to the possible risk of transfusion transmitted WNV. Interested persons may, at any time, submit written or electronic comments to the Dockets Management Branch (see **ADDRESSES**) regarding this guidance document. Two copies of any mailed comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of

the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

**III. Electronic Access**

Persons with access to the Internet may obtain the document at either <http://www.fda.gov/cber/guidelines.htm> or <http://www.fda.gov/ohrms/dockets/default.htm>.

Dated: November 15, 2002.

**Margaret M. Dotzel,**

*Assistant Commissioner for Policy.*

[FR Doc. 02-30156 Filed 11-27-02; 8:45 am]

**BILLING CODE 4160-01-S**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****National Institutes of Health****Government-Owned Inventions; Availability for Licensing**

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: 301/496-7057; fax: 301/402-0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**Backbone-Substituted Bifunctional DOTA Ligands, Complexes and Compositions Thereof, and Methods of Using the Same**

Martin Brechbiel, Hyun-soon Chung (NCI), DHHS Reference No. E-035-2002 filed 06 Sep 2002, Licensing Contact: Matthew Kiser; 301/435-5236; [kiserm@od.nih.gov](mailto:kiserm@od.nih.gov).

The subject technology is directed to three backbone-substituted 1,4,7,10-tetraazacyclododecane (DOTA) compounds. These compounds can be



chelated with radionuclides and used as imaging or therapeutic agents. In particular, the compounds can be complexed with a paramagnetic element (e.g. Gd (III)) and used as contrast agents in magnetic resonance imaging (MRI) applications.

The DOTA derivatives of the invention are such that the macrocyclic backbone was pre-arranged or pre-organized in order to lower the energy barrier to complex formation, thereby potentially increasing the rate of complex formation. The pre-organization and macrocyclic effect of the DOTA sub-structure accelerates complexation with metal ions and isotopes (e.g. Y (III), Gd (III); etc.), while maintaining a high level of stability of the complexes.

#### **Alleviating Symptoms of Th2-Like Cytokine Mediated Disorders by Reducing IL-13 Receptor-Expressing Cells in the Respiratory Tract**

Raj K. Puri *et al.* (FDA), PCT application PCT/US02/00616, which claims priority to U.S. Provisional Patent Application 60/337,179 (E-296-01/0) filed December 4, 2001, Licensing Contact: Brenda Hefti; 301/435-4632; [heftib@od.nih.gov](mailto:heftib@od.nih.gov).

This invention relates to the alleviation of symptoms of Th2-like cytokine mediated disorders, such as allergy, asthma, and to hyperinflammatory responses in the respiratory tract to infectious diseases and parasitic infections, including tuberculosis, schistosomiasis, leishmania, and filariasis.

This invention claims a variety of methods and uses of a chimeric molecule comprising a toxic moiety and a targeting moiety that specifically binds to a cell surface receptor for IL-13, to alleviate symptoms of a variety of respiratory disorders. This method has been proven successful in various mouse models in vivo.

#### **Use of Mx GTPases in the Prognosis and Treatment of Cancer**

J. Frederic Mushinski, Jane B. Trepel, Michel Andre Horisberger, PhuongMai Nguyen, Chand Khanna (NCI), DHHS Reference No. E-292-01/0 filed 18 Oct 2001, Licensing Contact: Matthew Kiser; 301/435-5236; [kiserm@od.nih.gov](mailto:kiserm@od.nih.gov).

The present invention describes novel approaches in the diagnosis, reduction of progression and treatment of cancer using Mx GTPases (Mxs) and Mx-encoding nucleic acids. The diagnostic benefits of this invention include methods of assessing the metastatic potential of cancer cells by determining

the level of an Mx or Mx-encoding nucleic acid present in the cells. This invention also provides a method for administration of an Mx or expression of a nucleic acid encoding an Mx at, in, or near cancer cells, as well as a method for systemic induction of an Mx protein to reduce cancer progression in both solid tumors and hematologic malignancies.

#### **Use of a Promoter of T-Cell Expansion and an Inducer of CD40 Stimulation in the Treatment or Prevention of a Pathologic State**

William J. Murphy, Robert Wilttrout, Bruce Blazar, Susan E. Wilson (NCI), DHHS Reference Nos. E-150-01/0 filed 23 Aug 2001 and E-150-01/1 filed 23 Aug 2002, Licensing Contact: Matthew Kiser; 301/435-5236; [kiserm@od.nih.gov](mailto:kiserm@od.nih.gov).

The present invention provides a method for the prevention and treatment of pathologic states in mammals by administering a promoter of T-cell expansion with an inducer of CD40 stimulation in synergistically effective amounts. The disclosed invention could provide treatments for cancers, viral infections, HIV, bacterial infections, fungal infections, and allergic conditions. A method for assessing the treatment administered is also described.

Dated: November 19, 2002.

**Jack Spiegel,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 02-30227 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institutes of Health**

#### **National Institute of Child Health and Human Development; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel, Child Development Review SEP.

*Date:* December 5-6, 2002.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

*Contact Person:* Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review National Institute of child Health, and Human Development, 6100 building, Room 5E01, Bethesda, MD 20892, (301) 435-6911, [hoppmannm@mail.nih.gov](mailto:hoppmannm@mail.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30231 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institutes of Health National**

#### **National Institute of Child Health And Human Development; Notice of Meeting**

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Board on Medical Rehabilitation Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* National Advisory Board on Medical Rehabilitation Research.

*Date:* December 5-6, 2002.

*Time:* December 5, 2002, 8:45 a.m. to 5 p.m.

*Agenda:* The agenda will include reports by the Director, NICHD and Director, NCMRR, update on NCMRR training activities, discussion of the future of medical rehabilitation, and other business of the Board.



*Place:* Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

*Time:* December 6, 2002, 8:45 a.m. to Adjournment.

*Agenda:* The agenda will include reports by the Director, NICHD and Director, NCMRR, update on NCMRR training activities, discussion of the future of medical rehabilitation, and other business of the Board.

*Place:* Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

*Contact Person:* Ralph M. Nitkin, PhD, Director, BSCD, National Center for Medical Rehabilitation Research, National Institute of Child Health and Human Development, NIH, 6100 Building, room 2A03, Bethesda, MD 20892, (301) 402-4206.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: [www.nichd.nih.gov/about/ncmrr.htm](http://www.nichd.nih.gov/about/ncmrr.htm), where an agenda and any additional information for the meeting will be posed when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30232 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel Data Coordinating Centers.

*Date:* December 3, 2002.

*Time:* 12 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH/NICHD/DSR, 6100 Executive Boulevard, 5B01, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E01, Bethesda, MD 20892, (301) 435-6911, [hopmannm@mail.nih.gov](mailto:hopmannm@mail.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30233 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Children's Study Assembly and Working Group Meetings. The parent committee for this workgroup is the National Children's Study of Environmental Effects on Health Advisory Committee.

The meetings will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Logistics Coordinator at the e-mail or phone number listed below in advance of the meeting. To register for the meetings, visit the conference Web site at: <http://www.circlesolutions.com/ncs>, send an e-mail to

[ncs@circlesolutions.com](mailto:ncs@circlesolutions.com), or call 703-902-1339.

*Name of Committee:* National Children's Study Assembly and Working Groups.

*Date:* December 16-18, 2002.

*Time:*

*Registration:* December 15, 2002, 4 p.m. to 7 p.m.; December 16, 2002, 7:30 a.m. to 5 p.m.; December 17, 2002, 7:30 a.m. to 7 p.m.; December 18, 2002, 7:30 a.m. to 5 p.m.

*Study Assembly:* December 17, 2002, 8:30 a.m. to 12 p.m.

*Working Groups:* December 17, 2002, 1 p.m. to 5 p.m.; December 18, 2002, 8:30 a.m. to 4 p.m.

*Agenda:* To discuss the status of planning this longitudinal study of environmental effects on the well-being of children. Content of the meeting will include a status report on development of planning for the study thus far, and reports on specific issues including for example, proposed hypotheses for the Study, study design issues, and the timeline for the remainder of the planning phase. The Study Assembly is made up of all stakeholders interested in the Study. Its purpose is to disseminate information to members and to serve as a conduit for bringing information and views from individuals and various organizations to the Study organization. The Study Assembly is open to anyone who indicates an interest in the Study, and includes representatives of all stakeholders, both inside and outside of government, advocacy groups, industry, academic institutions, state and local governments, and community groups. To become a member of the Study Assembly, interested persons should send an e-mail to: [NCS@mail.nih.gov](mailto:NCS@mail.nih.gov). Study Assembly members are welcome as observers during the other open meetings of this series. The National Children's Study of Environmental Effects on Health Advisory Committee will be held at the same location on December 17-18, 2002, 8 a.m. to 5 p.m.

*Place:* Baltimore Marriott Waterfront Hotel, 700 Aliceanna Street, Baltimore, MD 21202.

*Contact Person:* Peter M. Scheidt, M.D., Medical Officer, Division of Epidemiology, Statistics and Prevention Research, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5C01, Bethesda, MD 20892, (301) 451-6421, [NCS@mail.nih.gov](mailto:NCS@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, (HHS))

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30234 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the National Children's Study of Environmental Effects on Health Advisory Committee.

The meetings which are being co-sponsored by the Environmental Protection Agency, the National Institute of Environmental Health Sciences, and the Centers for Disease Control and Prevention, will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. To register for the meetings, visit the conference Web site at: <http://www.circlesolutions.com/ncs>, send an e-mail to [ncs@circlesolutions.com](mailto:ncs@circlesolutions.com), or call 703-902-1339. The National Children's Study Advisory Committee Meeting is open to anyone who indicates an interest and includes representatives of all stakeholders, both inside and outside of government, advocacy groups, industry, academic institutions, state and local governments, and community groups.

*Name of Committee:* National Children's Study of Environmental Effects of Health Advisory Committee.

*Date:* December 17-18, 2002.

*Time:* 1 p.m. to 5 p.m.

Registration: December 15, 2002, 4 p.m. to 7 p.m.; December 16, 2002, 7:30 a.m. to 5 p.m.; December 17, 2002, 7:30 a.m. to 7 p.m.; December 18, 2002, 7:30 a.m. to 5 p.m.

*Agenda:* To review activities since the last meeting held in September 2002. Primary objectives are to discuss and review sampling strategies, recruitment prior to conception, life-course timeline proposed by the Health Services and Social Environment Working Groups, prioritization of pilot studies, ethics issues in thematic areas and community outreach and communication issues in thematic areas.

*Place:* Baltimore Marriott Waterfront Hotel, 700 Aliceanna Street, Baltimore, MD 21202.

*Contact Person:* Peter M. Scheidt, M.D., Medical Officer, Division of Epidemiology, Statistics and Prevention Research, National Institute of Child Health, and Human Development, NIH, 6100 Executive Boulevard, Room 5C01, Bethesda, MD 20892, (301) 451-6421. [NCS@mail.nih.gov](mailto:NCS@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30235 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Biology of Neuroendocrine Peptides.

*Date:* December 17, 2002.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Michele L. Barnard, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892-6600, (301) 594-8898, [barnardm@extra.niddk.nih.gov](mailto:barnardm@extra.niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Dialysis Clinical Trials.

*Date:* December 17, 2002.

*Time:* 2:30 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* John Connaughton, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594-7797, [connaughtonj@extra.niddk.nih.gov](mailto:connaughtonj@extra.niddk.nih.gov).

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, K08 Review.

*Date:* January 9, 2003.

*Time:* 2 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Dan E. Matsumoto, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892-6600, (301) 594-8894, [matsumotod@extra.niddk.nih.gov](mailto:matsumotod@extra.niddk.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30237 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposal and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Structural and Functional Brain Changes.

*Date:* December 6, 2002.

*Time:* 2 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue,

Room 2C212, Bethesda, MD 20892  
(Telephone Conference Call).

*Contact Person:* Louise L. Hsu, PhD., The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496-7705.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30238 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Innovative Approaches for Combating Antimicrobial Resistance.

*Date:* December 16-18, 2002.

*Time:* 8:30 am to 6:00 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person:* Alec Ritchie, PhD, Scientific Review Administrator, National Institute of Allergy and Infectious Diseases, 6700 B Rockledge Drive, MSC 7616, Room 2223, Bethesda, MD 20892-7616, 301-435-1614, [ar266w@nih.gov](mailto:ar266w@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30239 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institutes of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, HLA Typing and Epitope Mapping Relative to HIV Vaccine Design.

*Date:* December 11, 2002.

*Time:* 12:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* NIAID, DEA, SRP, 6700B Rockledge Drive, Rm. 2148A, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Katherine L. White, PhD, Scientific Review Administrator, AIDS Preclinical Research Review Branch, Scientific Review Program, National Institutes of Allergy and Infectious Diseases, Room 3119, Bethesda, MD 20892, (301) 435-1615, [kw174b@nih.gov](mailto:kw174b@nih.gov)

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30240 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel Agents of Bioterrorism: Pathogenesis and Host Defense.

*Date:* December 17, 2002.

*Time:* 12 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Health, NIAID, 6700-B Rockledge Dr., Room 2220, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Eleazar Cohen, PhD, Scientific Review Administrator, NIAID/DEA, Scientific Review Program, Room 2217, 6700B Rockledge Drive, MSC-7616, Rockville, MD 20892, 301-496-2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30241 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Alcohol Abuse and Alcoholism; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, November 26, 2002, 2 p.m. to November 26, 2002, 3 p.m., which was published in the **Federal**

**Register** on November 1, 2002, 67 FR 66648–66649.

The date is the only change from 11/26/2002 to 12/12/2002. The meeting is closed to the public.

Dated: November 22, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02–30245 Filed 11–27–02; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense and Emerging Infectious Diseases Research Opportunities.

*Date:* December 20, 2002.

*Time:* 10 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6700–B Rockledge Dr., Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Vassil St. Georgiev, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 2102, 6700–B Rockledge Drive, MSC–7610, Rockville, MD 20892–7610, 301–496–2550, [vg8q@niaid.nih.gov](mailto:vg8q@niaid.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 22, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02–30246 Filed 11–27–02; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense & Emerging Infectious Diseases Research Opportunities.

*Date:* December 20, 2002.

*Time:* 9 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Anna Ramsey-Ewing, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2103, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, [ar15o@nih.gov](mailto:ar15o@nih.gov).

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense & Emerging Infectious Diseases Research Opportunities.

*Date:* December 20, 2002.

*Time:* 1 p.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Anna Ramsey-Ewing, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2103, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550 [ar15o@nih.gov](mailto:ar15o@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 22, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02–30247 Filed 11–27–02; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, November 25, 2002, 12:30 p.m. to November 25, 2002, 2 p.m., which was published in the **Federal Register** on November 15, 2002, 67 FR 69228–69229.

The meeting will be held December 4, 2002, from 3:30 p.m. to 5 p.m. The location remains the same. The meeting is closed to the public.

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02–30236 Filed 11–27–02; 8:45 am]

**BILLING CODE 4140–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 PBC PO1 Ribozyme Folding Study Section.

*Date:* December 2, 2002.

*Time:* 8:30 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Four Points by Sheraton Bethesda, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Zakir Bengali, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435–1742.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, MSD Conflicts.

*Date:* December 4, 2002.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435-1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, MSD Conflicts.

*Date:* December 9, 2002.

*Time:* 2 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435-1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, EAR.

*Date:* December 10, 2002.

*Time:* 9:30 a.m. to 12 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Joseph Kimm, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, (301) 435-1249.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, MSD Conflicts.

*Date:* December 11, 2002.

*Time:* 2 p.m. to 3:15 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435-1787.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Human Embryonic Stem Cell Training.

*Date:* December 16, 2002.

*Time:* 1:30 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435-1021, [duperes@csr.nih.gov](mailto:duperes@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, MSD Conflicts.

*Date:* December 16, 2002.

*Time:* 2:30 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435-1787.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Dopamine Receptors.

*Date:* December 17, 2002.

*Time:* 11 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Gordon L. Johnson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435-1212.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 PTHA (03): Vascular Sympathetic Neurons in Hypertension.

*Date:* December 17, 2002.

*Time:* 1:15 p.m. to 2:15 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Larry Pinkus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435-1214.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, MSD Conflicts.

*Date:* December 20, 2002.

*Time:* 11 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435-1787.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.333-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 21, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30242 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Fellowships Cancer Research.

*Date:* November 26, 2002.

*Time:* 3:30 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6201, MSC 7804, Bethesda, MD 20892, (301) 435-1211.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 22, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30243 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Synaptic Function.

*Date:* December 9, 2002.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Joanne T. Fujii, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435-1178, [fujii@drf.nih.gov](mailto:fujii@drf.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 SSS-2 (12)-Protein Prenylation.

*Date:* December 10, 2002.

*Time:* 2:30 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Prabha L. Atreya, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435-8367, [atreya@csr.nih.gov](mailto:atreya@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Neuropharmacology.

*Date:* December 11, 2002.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Syed Husain, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7850, Bethesda, MD 20892, (301) 435-1224, [husains@csr.nih.gov](mailto:husains@csr.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN-4(06) Auditory Impairments Study Section.

*Date:* December 18, 2002.

*Time:* 4 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Daniel R. Kenshalo, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301-435-1255.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, ZRG1 1FCN-4 (07) Mechanisms of Drug Abuse Study Section.

*Date:* December 18, 2002.

*Time:* 12 p.m. to 2 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Daniel R. Kenshalo, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301-435-1255.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.399-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 22, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30248 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Clinical Center; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the a meeting of the The Board of Scientific Counselors of the Warren Magnuson Clinical Center.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review discussion, and evaluation of individual intramural programs and projects conducted by the Clinical Center, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* The Board of Scientific Counselors of the Warren Grant Magnuson Clinical Center.

*Date:* January 6-7, 2003.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigations.

*Place:* National Institutes of Health, Building 10, 10 Center Drive, Clinical Ctr Medical Bldg Rm, 2C116, Bethesda, MD 20892.

*Contact Person:* David K Henderson, MD, Deputy Director for Clinical Care, Office of the Director, Clinical Center, National Institutes of Health, Building 10, Room 2C146, Bethesda, MD 20892, 301/402-0244.

Dated: November 22, 2002.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 02-30244 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Prospective Grant of Exclusive License: Conjugate Vaccines To Prevent Diseases Caused by Nontypeable Haemophilus Influenzae and Moraxella Catarrhalis, Particularly Otitis Media

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR

404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license concerning the inventions embodied in: U.S. Patent Application Serial Number 08/842,409 (now USPN 6,207,157) entitled "Conjugate vaccine for Nontypeable *H. influenzae*", its divisional application U. S. Patent Application Serial Number 09/789,017, and U.S. Patent Application Serial Number 60/071,483 (now U.S. Patent Application Serial Number 09/610,034 and PCT/US99/00590, National Staged in Australia, Brazil, Canada, China, Europe, Korea, Mexico, and Japan), entitled "Lipooligosaccharide-Based Vaccine for Prevention of *Moraxella (Branhamella) catarrhalis* Infections in Humans", to Apovia, Inc., a company of San Diego, California. The United States of America is an assignee to the patent rights of these inventions.

The contemplated exclusive license may be limited to the development of vaccines for the prevention or treatment of diseases in humans caused by infection with nontypeable *H. influenzae* and *M. catarrhalis*.

This notice is a modification to two previous **Federal Register** Notices related to the technology published on March 5, 1999 (64 FR 10671) and on July 30, 1999 (64 FR 41452).

**DATES:** Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before January 28, 2003 will be considered.

**ADDRESSES:** Requests for a copy of the patents, inquiries or comments relating to the contemplated license should be directed to: Uri Reichman, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852-3804; Telephone: (301) 435-4616, Facsimile: (301) 402-0220; E-mail: [reichmanu@od.nih.gov](mailto:reichmanu@od.nih.gov).

**SUPPLEMENTARY INFORMATION:** The inventions included in the prospective license describe conjugates of detoxified lipooligosaccharide (dLOS), isolated from the cellular membrane of either nontypeable *H. Influenzae* or *M. catarrhalis* and a carrier. These conjugates have been shown to raise bactericidal antibodies against the bacterial strain from which the dLOS was isolated and are also cross-reactive with different strains.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless,

within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 19, 2002.

**Jack Spiegel,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer.*

[FR Doc. 02-30230 Filed 11-27-02; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4730-N-48]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

#### FOR FURTHER INFORMATION CONTACT:

Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the

December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Shirley Kramer, Division of Property Management, Program Support Center, HHS, room 5B-41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers



interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AIR FORCE: Ms. Barbara Jenkins, Air Force Real Estate Agency, (Area-MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332-8020; (202) 767-4184; COE: Ms. Shirley Middleswarth, Army Corps of Engineers, Management & Disposal Division, 441 G Street, Washington, DC 20314-1000; (202) 761-7425; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501-0052; INTERIOR: Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C. Street, NW., Washington, DC 20240; (202) 219-0728; NAVY: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374-5065; (202) 685-9200; (These are not toll-free numbers).

Dated: November 21, 2002.

**John D. Garrity,**

*Director, Office of Special Needs Assistance Programs.*

**TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 11/29/02**

**Suitable/Available Properties**

*Buildings (by State)*

Iowa

Former Navy Housing  
Waverly Co: Bremer IA  
Landholding Agency: Interior  
Property Number: 61200240001  
Status: Unutilized  
Comment: 23 single family homes/lift station house, sq. ft. varies, needs rehab, presence of asbestos/lead paint, no sanitary facilities.

Mississippi

Post Office/Courthouse  
820 Crawford Street  
Vicksburg Co: Warren MS 39180-

Landholding Agency: GSA  
Property Number: 54200240013  
Status: Surplus  
Comment: 14,000 sq. ft., needs rehab, presence of asbestos, historic preservation covenant required, portion occupied by Federal tenants

GSA Number: 4-G-MS-0559.

South Dakota

Residence  
Tract 109  
Pierre Co: Hughes SD  
Landholding Agency: COE  
Property Number: 31200240002  
Status: Excess  
Comment: 960 sq. ft., off-site use only.

Residence  
Tract 118  
Pierre Co: Hughes SD  
Landholding Agency: COE  
Property Number: 31200240003  
Status: Excess  
Comment: 912 sq. ft., off-site use only.

Residence  
Tract 131  
Pierre Co: Hughes SD  
Landholding Agency: COE  
Property Number: 31200240004  
Status: Excess  
Comment: 912 sq. ft., off-site use only.

Residence  
Tract 141  
Pierre Co: Hughes SD  
Landholding Agency: COE  
Property Number: 31200240005  
Status: Excess  
Comment: 936 sq. ft., off-site use only.

Residence  
Tract 514  
Ft. Pierre Co: Stanley SD  
Landholding Agency: COE  
Property Number: 31200240006  
Status: Excess  
Comment: 1426 sq. ft., off-site use only.

Residence  
Tract 516  
Ft. Pierre Co: Stanley SD  
Landholding Agency: COE  
Property Number: 31200240007  
Status: Excess  
Comment: 2264 sq. ft., off-site use only.

*Land (by State)*

Kentucky

Tract No. F-610  
Buckhorn Lake Project  
Buckhorn Co: KY 41721-  
Landholding Agency: COE  
Property Number: 31200240001  
Status: Unutilized  
Comment: 0.64 acres, encroachments, most recent use—flood control purposes.

Pennsylvania

Bldg. 201  
Pittsburgh IAP  
Corapolis Co: Allegheny PA 15108-  
Landholding Agency: Air Force  
Property Number: 18200240014  
Status: Excess  
Comment: 310 sq. ft., most recent use—storage.

Bldg. 203  
Pittsburgh IAP

Corapolis Co: Allegheny PA 15108-  
Landholding Agency: Air Force  
Property Number: 18200240015  
Status: Excess  
Comment: 4163 sq. ft., most recent use—vehicle maint. shop.

Bldg. 208  
Pittsburgh IAP  
Corapolis Co: Allegheny PA 15108-  
Landholding Agency: Air Force  
Property Number: 18200240016  
Status: Excess  
Comment: 144 sq. ft., most recent use—storage.

Bldg. 210  
Pittsburgh IAP  
Corapolis Co: Allegheny PA 15108-  
Landholding Agency: Air Force  
Property Number: 18200240017  
Status: Excess  
Comment: 263 sq. ft., most recent use—storage.

Bldg. 211  
Pittsburgh IAP  
Corapolis Co: Allegheny PA 15108-  
Landholding Agency: Air Force  
Property Number: 18200240018  
Status: Excess  
Comment: 1731 sq. ft., most recent use—office.

**Unsuitable Properties**

*Buildings (by State)*

Alaska

Bldg. 8354  
Elmendorf AFB  
Elmendorf AFB Co: AK 99506-  
Landholding Agency: Air Force  
Property Number: 18200240001  
Status: Unutilized  
Reason: Extensive deterioration.  
Bldg. 11827  
Elmendorf AFB  
Elmendorf AFB Co: AK 99506-  
Landholding Agency: Air Force  
Property Number: 18200240002  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area.

California

Bldg. 394  
Space & Naval Warfare  
Systems Center  
San Diego Co: CA  
Landholding Agency: Navy  
Property Number: 77200240041  
Status: Unutilized  
Reason: Extensive deterioration.  
Bldg. 428  
Space & Naval Warfare  
Systems Center  
San Diego Co: CA  
Landholding Agency: Navy  
Property Number: 77200240042  
Status: Unutilized  
Reason: Extensive deterioration.

Florida

Bldg. C-26  
Naval Air Station  
Key West Co: Monroe FL 33040-  
Landholding Agency: Navy  
Property Number: 77200240043  
Status: Unutilized



Reason: Extensive deterioration.  
Bldg. F-44  
Naval Air Station  
Key West Co: Monroe FL 33040-  
Landholding Agency: Navy  
Property Number: 77200240044  
Status: Unutilized  
Reason: Extensive deterioration.

## Hawaii

Bldg. T47  
Naval Shipyard  
Pearl Harbor Co: Honolulu HI 96860-5350  
Landholding Agency: Navy  
Property Number: 77200240045  
Status: Unutilized  
Reason: Extensive deterioration.

## Idaho

Bldg. 1328  
Mountain Home AFB  
Mountain Home Co: Elmore ID 83648-  
Landholding Agency: Air Force  
Property Number: 18200240003  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material

## Minnesota

Parcel B  
Twin Cities Army Ammunition  
Plant  
Arden Hills Co: MN 55112-3938  
Landholding Agency: GSA  
Property Number: 54200240015  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material  
GSA Number: 1-D-MN-0578B.

## Montana

Bldg. 547  
Malmstrom AFB  
Malmstrom AFB Co: Cascade MT 59402-  
Landholding Agency: Air Force  
Property Number: 19200240004  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

Bldg. 769  
Malmstrom AFB  
Malmstrom AFB Co: Cascade MT 59402-  
Landholding Agency: Air Force  
Property Number: 18200240005  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

Bldg. 1084  
Malmstrom AFB  
Malmstrom AFB Co: Cascade MT 59402-  
Landholding Agency: Air Force  
Property Number: 18200240006  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

Bldg. 2025  
Malmstrom AFB  
Malmstrom AFB Co: Cascade MT 59402-  
Landholding Agency: Air Force  
Property Number: 18200240007  
Status: Unutilized  
Reason: Secured Area.

## Oklahoma

Comfort Station  
LeFlore Landing PUA  
Sallisaw Co: LeFlore OK 74955-9445

Landholding Agency: COE  
Property Number: 31200240008  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

Comfort Station  
Braden Bend PUA  
Sallisaw Co: LeFlore OK 74955-9445  
Landholding Agency: COE  
Property Number: 31200240009  
Status: Excess  
Reason: Extensive deterioration.

Water Treatment Plant  
Salt Creek Cove  
Sawyer Co: Choctaw OK 74756-0099  
Landholding Agency: COE  
Property Number: 31200240010  
Status: Excess  
Reason: Extensive deterioration.

Water Treatment Plant  
Wilson Point  
Sawyer Co: Choctaw OK 74756-0099  
Landholding Agency: COE  
Property Number: 31200240011  
Status: Excess  
Reason: Extensive deterioration.

2 Comfort Stations  
Landing PUA/Juniper Point  
PUA  
Stigler Co: McIntosh OK 74462-9440  
Landholding Agency: COE  
Property Number: 31200240012  
Status: Excess  
Reason: Extensive deterioration.

Filter Plant/Pumphouse  
South PUA  
Stigler Co: McIntosh OK 74462-9440  
Landholding Agency: COE  
Property Number: 31200240013  
Status: Excess  
Reason: Extensive deterioration.

Filter Plant/Pumphouse  
North PUA  
Stigler Co: McIntosh OK 74462-9440  
Landholding Agency: COE  
Property Number: 31200240014  
Status: Excess  
Reason: Extensive deterioration.

Filter Plant/Pumphouse  
Juniper Point PUA  
Stigler Co: McIntosh OK 74462-9440  
Landholding Agency: COE  
Property Number: 31200240015  
Status: Excess  
Reason: Extensive deterioration.

Comfort Station  
Juniper Point PUA  
Stigler Co: McIntosh OK 74462-9440  
Landholding Agency: COE  
Property Number: 31200240016  
Status: Excess  
Reason: Extensive deterioration.

Comfort Station  
Brooken Cove PUA  
Stigler Co: McIntosh OK 74462-9440  
Landholding Agency: COE  
Property Number: 31200240017  
Status: Excess  
Reason: Extensive deterioration.

## Pennsylvania

Bldg. 220009  
Naval Support Activity  
Philadelphia Co: PA 19111-5098

Landholding Agency: Navy  
Property Number: 77200240046  
Status: Excess  
Reasons: Secured Area, Extensive  
deterioration.

## Rhode Island

Facility 6  
Quonset State Airport  
N. Kingstown Co: RI 02852-7545  
Landholding Agency: Air Force  
Property Number: 1820024008  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

Facility 16  
Quonset State Airport  
N. Kingstown Co: RI 02852-7545  
Landholding Agency: Air Force  
Property Number: 18200240009  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

## Texas

6 Bldgs.  
Ellington Field  
1277, 1381, 1385, 1386,  
1388, 1249  
Houston Co: Harris TX 77034-5586  
Landholding Agency: Air Force  
Property Number: 18200240010  
Status: Excess  
Reason: Extensive deterioration.

Comfort Station  
Overlook PUA  
Powderly Co: Lamar TX 75473-9801  
Landholding Agency: COE  
Property Number: 31200240018  
Status: Excess  
Reason: Extensive deterioration.

Bldg. 1082  
Naval Air Station  
Ft. Worth Co: Tarrant TX 76127-  
Landholding Agency: Navy  
Property Number: 77200240047  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 1078  
Naval Air Station  
Ft. Worth Co: Tarrant TX 76127-  
Landholding Agency: Navy  
Property Number: 77200240048  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 1080  
Naval Air Station  
Ft. Worth Co: Tarrant TX 76127-  
Landholding Agency: Navy  
Property Number: 77200240049  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 1241  
Naval Air Station  
Ft. Worth Co: Tarrant TX 76127-  
Landholding Agency: Navy  
Property Number: 77200240050  
Status: Unutilized  
Reason: Extensive deterioration.

Bldg. 1828  
Naval Air Station  
Ft. Worth Co: Tarrant TX 76127-  
Landholding Agency: Navy  
Property Number: 77200240051  
Status: Unutilized

Reason: Extensive deterioration.  
Bldg. 3340  
Naval Air Station  
Ft. Worth Co: Tarrant TX 76127–  
Landholding Agency: Navy  
Property Number: 77200240052  
Status: Unutilized  
Reason: Extensive deterioration.  
Virginia

Bldg. 417  
Camp Pendleton  
Virginia Beach Co: VA 23451–  
Landholding Agency: Air Force  
Property Number: 18200240011  
Status: Excess  
Reasons: Secured Area, Extensive  
deterioration.

Bayview Tower  
Langley AFB  
Langley AFB Co: VA 23665–  
Landholding Agency: Air Force  
Property Number: 18200240012  
Status: Unutilized  
Reason: Floodway.

Pier R–1  
Naval Weapons Station  
Yorktown Co: VA 23691–  
Landholding Agency: Navy  
Property Number: 77200240053  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material, Secured Area.

Bldg. 709  
Naval Weapons Station  
Yorktown Co: VA 23691–  
Landholding Agency: Navy  
Property Number: 77200240054  
Status: Unutilized  
Reasons: Within 2000 ft. of flammable or  
explosive material, Secured Area.

Bldg. M–15  
Naval Station  
Norfolk Co: VA 23511–3095  
Landholding Agency: Navy  
Property Number: 77200240055  
Status: Excess  
Reason: Extensive deterioration.

Bldg. NM–79  
Naval Station  
Norfolk Co: VA 23511–3095  
Landholding Agency: Navy  
Property Number: 77200240056  
Status: Excess  
Reason: Extensive deterioration.

Bldg. Z–216  
Naval Station  
Norfolk Co: VA 23511–3095  
Landholding Agency: Navy  
Property Number: 77200240057  
Status: Excess  
Reason: Extensive deterioration.

Washington  
Rec Storage Bldg.  
Richland Parks  
Richland Co: Benton WA 99352–  
Landholding Agency: COE  
Property Number: 31200240019  
Status: Unutilized  
Reason: Extensive deterioration.

Wyoming  
Bldg. 360  
F.E. Warren AFB  
Cheyenne Co: Laramie WY 82005–5000

Landholding Agency: Air Force  
Property Number: 18200240013  
Status: Unutilized  
Reasons: Secured Area, Extensive  
deterioration.

#### *Land (by State)*

Minnesota

Parcel A  
Twin Cities Army Ammunition Plant  
Arden Hills Co: MN 55112–3938  
Landholding Agency: GSA  
Property Number: 54200240014  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material  
GSA Number: 1–D–MN–0578A.

Washington

2.8 acres  
Tract P–1003  
Kennewick Co: Benton WA 99336–  
Landholding Agency: COE  
Property Number: 31200240020  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material.

[FR Doc. 02–30015 Filed 11–27–02; 8:45 am]

**BILLING CODE 4210–29–M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Endangered and Threatened Species Permit Application

**AGENCY:** Fish and Wildlife Service,  
Interior.

**ACTION:** Receipt of applications for  
recovery permits.

**SUMMARY:** The following applicants have  
applied for permits to conduct scientific  
research and/or enhancement under the  
Endangered Species Act of 1973 (ESA).  
The Fish and Wildlife Service has  
received applications for recovery  
permits from Mr. Joeseeph E. Duchamp,  
West Lafayette, Indiana; U.S. Army  
Corps of Engineers, Memphis,  
Tennessee; and Missouri Department of  
Conservation, Jackson, Missouri.

**DATES:** Submit comments on or before  
December 30, 2002.

**ADDRESSES:** Written data or comments  
should be submitted to the Regional  
Director, U.S. Fish and Wildlife Service,  
Ecological Services, 1 Federal Drive,  
Fort Snelling, Minnesota 55111–4056.

**FOR FURTHER INFORMATION CONTACT:** Mr.  
Peter Fasbender at (612) 713–5343, or by  
Fax at (612) 713–5292, e-mail:  
[peter\\_fasbender@fws.gov](mailto:peter_fasbender@fws.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Permit Number TE060840**

*Applicant:* Joeseeph E. Duchamp, West  
Lafayette, Indiana, requests a permit to  
take (capture, handle and release) the

Indiana bat (*Myotis sodalis*) throughout  
the Upper Wabash River basin in  
Indiana. The scientific research is aimed  
at enhancement of survival of the  
species in the wild.

##### **Permit Number TE060841**

*Applicant:* U.S. Army Corps of  
Engineers, Memphis, Tennessee,  
requests a permit to take (capture,  
handle and release) Curtis' pearlymussel  
(*Epioblasma florentina curtisi*), pink  
mucket pearlymussel (*Lampsilis  
abrupta*), fat pocketbook mussel  
(*Potamilus capax*) and orange-footed  
pearlymussel (*Plethobasus cooperianus*)  
throughout Illinois and Missouri. The  
scientific research is requested for  
project impact assessment.

##### **Permit Number TE060998**

*Applicant:* Missouri Department of  
Conservation, Jackson, Missouri,  
requests a permit to take (capture, mark,  
and release) pallid sturgeon  
(*Scaphirhynchus albus*) in the Middle  
Mississippi River between the  
confluences of the Missouri and Ohio  
Rivers, Missouri. The scientific research  
is aimed at enhancement of survival of  
the species in the wild.

Documents and other information  
submitted with these applications are  
available for review by any party who  
requests a copy of such documents from  
the following office within 30 days of  
the date of publication of this notice:  
U.S. Fish and Wildlife Service,  
Ecological Services, 1 Federal Drive,  
Fort Snelling, Minnesota 55111–4056,  
[peter\\_fasbender@fws.gov](mailto:peter_fasbender@fws.gov), telephone  
(612) 713–5343, or Fax (612) 713–5292.

**Authority:** This notice is provided  
pursuant to section 10(c) of the Endangered  
Species Act of 1973, as amended (16 U.S.C.  
1531, *et seq.*); 50 CFR 17.22.

Dated: November 12, 2002.

**TJ Miller,**

*Acting Assistant Regional Director, Ecological  
Services, Region 3, Fort Snelling, Minnesota.*

[FR Doc. 02–30160 Filed 11–27–02; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Endangered and Threatened Species Permit Applications

**AGENCY:** Fish and Wildlife Service,  
Interior.

**ACTION:** Notice of receipt of application.

**SUMMARY:** The following applicant has  
applied for a permit to conduct certain  
activities with endangered species. This  
notice is provided pursuant to section

10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

**DATES:** Submit comments on or before December 30, 2002.

**ADDRESSES:** Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Comments must be received within 30 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter Fasbender at (612) 713-5343, or by Fax at (612) 713-5292, e-mail: [peter\\_fasbender@fws.gov](mailto:peter_fasbender@fws.gov).

#### SUPPLEMENTARY INFORMATION:

##### Permit Number PRT-697830

*Applicant:* Assistant Regional Director, Ecological Services, Region 3, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

The applicant requests an amendment to his permit for scientific take activities of listed species in Region 3 to add the following species for scientific purposes and the enhancement of propagation or survival of the species in the wild, in accordance with listing, recovery outlines, recovery plans and/or other Service work for the species: Canada lynx (*Lynx canadensis*), Whooping crane (*Grus americana*), Lake Erie water snake (*Nerodia sipedon insularum*), Tumbling Creek cavesnail (*Antrobia culveri*), Scaleshell (*Leptodea leptodon*), Short's goldenrod (*Solidago shortii*), and Virginia sneezeweed (*Helenium virginicum*).

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: Mr. Peter Fasbender, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612) 713-5343; Fax: (612) 713-5292; e-mail: [peter\\_fasbender@fws.gov](mailto:peter_fasbender@fws.gov).

Dated: November 12, 2002.

**TJ Miller,**

*Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*  
[FR Doc. 02-30161 Filed 11-27-02; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Endangered and Threatened Wildlife and Plants: Notice of Receipt of an Application for an Incidental Take Permit and Availability and Opening of Comment Period for an Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the West Virginia Northern Flying Squirrel in Association With Camp Wilderness Development Project at Snowshoe Mountain Resort, Pocahontas County, WV

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and receipt of application.

**SUMMARY:** This notice advises the public that Intrawest Resorts, Inc. (IRI) and Snowshoe Mountain, Inc. (SMI), an affiliate of IRI have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The application has been assigned permit number TE-065121. The proposed permit would authorize the incidental take of a federally endangered species, the West Virginia northern flying squirrel (WVNFS) (*Glaucomys sabrinus fuscus*), known to occur on property owned by the Applicants at Snowshoe Mountain Resort, Pocahontas County, West Virginia. The proposed taking is incidental to the planned construction of approximately 55 buildings, access road, shuttle terminal, ski trail and associated infrastructure of Camp Wilderness Development on approximately 51 acres owned by IRI. The permit would be in effect for up to 24 years depending on completion of final build out.

The Service announces the receipt of the IRI/SMI ITP application and the availability of the proposed Camp Wilderness Development HCP which accompanies the ITP application, for public comment. In addition, the Service also announces the availability of a draft EA for the proposed issuance of the ITP. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act of 1969 (NEPA) regulations (40 CFR 1506.6).

The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If it is determined that the requirements

are met, a permit will be issued for the incidental take of the WVNFS. The final NEPA and permit determinations will not be completed until after the end of the 60-day comment period and will fully consider all public comments received during the comment period.

**DATES:** Written comments on the permit application, HCP, and EA should be sent to the West Virginia Field Office (see **ADDRESSES**) and should be received on or before January 28, 2003.

**ADDRESSES:** Persons wishing to review the permit application, HCP, and draft EA may obtain a copy by writing the Service's West Virginia Field Office, 694 Beverly Pike, Elkins, West Virginia 26241. Requests for the documentation must be in writing to be processed. Written data or comments concerning the permit application, draft EA, and/or HCP should also be addressed to the Field Supervisor, U.S. Fish and Wildlife Service, West Virginia Field Office, Elkins, West Virginia. Please refer to permit TE-0651212 when submitting comments. Documents will also be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30).

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffrey Towner or Shane Jones, West Virginia Field Office (see **ADDRESSES** above), 304-636-6586.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act and Federal regulation prohibits the "taking" of a species listed as endangered or threatened. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to "incidentally take" listed species, if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are promulgated in 50 CFR 17.22.

#### Background

IRI/SMI have applied to the Service for an incidental take permit pursuant to section 10(a) of the Act. The Applicants propose to implement an HCP for the WVNFS that will allow development construction and subsequent occupancy activities in WVNFS habitat. The Applicant's proposed development may result in take, as defined in the Act and its implementing regulations, of listed species. Authorized take would only affect WVNFS; take of other federally listed species is specifically excluded from the proposed action. This permit would authorize the incidental take of

WVNFS at Camp Wilderness Development through otherwise lawful activities, specifically the construction of the planned development, occurring in WVNFS habitat. The HCP and permit would be in effect for a maximum of 24 years upon issuance.

The Applicant proposes the construction and subsequent occupancy of Camp Wilderness at Snowshoe Mountain. The proposed development consists of approximately 55 buildings containing privately owned residential units, a community building, other community facilities, a shuttle terminal, and a ski trail. Associated amenities (e.g., playground, a man-made pond and artificial stream, recreational trails) and infrastructure (e.g., streets and parking lots) are also planned. The proposed construction boundaries of Camp Wilderness encompass approximately 51 acres and are adjacent to and north of several existing condominium developments, and are located about 400 feet north of the Snowshoe Mountain ski slopes.

The anticipated incidental take will be limited to harm through habitat loss as the result of the permanent loss of habitat on 22.5 acres, and temporary loss of habitat on 17.3 acres. Other impacts to the WVNFS associated with the Camp Wilderness development do not rise to the level of take. IRI/SMI propose to implement measures to minimize, mitigate and monitor impacts to the WVNFS and include seasonal clearing restrictions, minimizing indirect effects on WVNFS by occupants of Camp Wilderness, minimizing the Camp Wilderness construction footprint, allowing natural forest regeneration in the Temporary Construction Zone, and establishing a permanent conservation area to provide refuge for the WVNFS.

The draft EA considers the environmental consequences of five alternatives, including a no-action alternative, the proposed action, a high density alternative, a reduced impact alternative and an off-site development alternative.

The Service provides this notice pursuant to section 10(c) of the Act. The Service will evaluate whether the issuance of a section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of the biological opinion, in combination with the evaluation of the permit application, the HCP, EA and comments submitted thereon, will be used in the final analysis to determine whether the application meets the requirements of section 10(a) of the Act. If the requirements are met, the Service will

issue a permit to IRI/SMI for the incidental take of WVNFS during the proposed construction of Camp Wilderness. We will make the final permit decision no sooner than 60 days from the date of this notice.

**Authority:** The authority for this section is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: November 18, 2002.

**Richard O. Bennett,**

*Acting Regional Director, Region 5.*

[FR Doc. 02-30170 Filed 11-27-02; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Notice of Availability of Final Environmental Impact Statement and Final Roosevelt Habitat Conservation Plan for Incidental Take by the Salt River Project

**AGENCY:** U.S. Fish and Wildlife Service, Department of the Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Salt River Project (SRP) has submitted an application for an incidental take permit (ITP) for the following federally listed and candidate species: southwestern willow flycatcher (*Empidonax traillii extimus*, flycatcher), Yuma clapper rail (*Rallus longirostris yumanensis*, clapper rail), bald eagle (*Haliaeetus leucocephalus*), and the yellow-billed cuckoo (*Coccyzus americanus*, cuckoo). The proposed take would occur in Gila and Maricopa counties, Arizona, as a result of management actions allowing Roosevelt Lake to fill, causing inundation of occupied habitat. The U.S. Fish and Wildlife Service (Service) has issued a final Environmental Impact Statement (EIS) that evaluates the impacts of and alternatives for the possible issuance of an incidental take permit (ITP). SRP completed the final Roosevelt Habitat Conservation Plan (RHCP) as part of the application package submitted to the Service as required by the Endangered Species Act of 1973, as amended (Act) for consideration of issuance of an ITP. The RHCP provides measures to minimize and mitigate the effects of the proposed taking of listed and candidate species and the habitats upon which they depend.

The final EIS includes (in attached volume 3) all comments received on the draft EIS, and responses to those comments. No decision will be made on the proposed action until at least 30 days after publication of this notice of availability of the final EIS in the

**Federal Register.** After the 30-day waiting period, the U.S. Fish and Wildlife Service will complete a Record of Decision (ROD) that states whether the action will be implemented and discusses all factors leading to the decision.

**ADDRESSES:** Persons wishing to review the final EIS and RHCP may obtain a copy by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.

**FOR FURTHER INFORMATION CONTACT:** On the EIS, Contact: Ms. Sherry Barrett, Assistant Field Supervisor, Tucson Suboffice, U.S. Fish and Wildlife Service, 110 S. Church, Suite 3450, Tucson, AZ 85701 at 520/670-4617, or Mr. Jim Rorabaugh, Arizona State Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021 at 602/242-0210. For further information on the RHCP, Contact: Mr. John Keane, Executive Environmental Policy Analyst, Salt River Project, P.O. Box 52025, PAB355, Phoenix, AZ 85072-2025 at 602/236-5087, or Mr. Craig Sommers, President, ERO Resources Corporation, 1842 Clarkson Street, Denver, CO 80218 at 303/830-1188.

Read-only downloadable copies of the final EIS and Application documents are available on the Internet at <http://arizonaes.fws.gov>. A printed or CD copy of the documents is available upon request to Virginia Kasper, Salt River Project, P.O. Box 52025, Phoenix, AZ 85072-2025; (602) 236-3416; [vckasper@srpnet.com](mailto:vckasper@srpnet.com). Copies of the final EIS and final RHCP are also available for public inspection and review at the locations listed below under **SUPPLEMENTARY INFORMATION**.

**SUPPLEMENTARY INFORMATION:** Pursuant to the National Environmental Policy Act (NEPA), this notice advises the public that the Service has gathered the information necessary to (1) determine impacts and formulate alternatives for the EIS, related to the potential issuance of an ITP to SRP; and (2) develop and implement the RHCP, which provides measures to minimize and mitigate the effects of the incidental take of federally listed species to the maximum extent practicable, pursuant to section 10(a)(1)(B) of the Act.

Section 9 of the Act prohibits the "taking" of threatened and endangered species. However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing

permits for endangered species are at 50 CFR parts 13 and 17.

Copies of the final EIS and RHCP are available for public inspection and review at the following locations (by appointment at government offices):

- Department of the Interior, Natural Resources Library, 1849 C St. NW., Washington, DC 20240.
- U.S. Fish and Wildlife Service, 110 S. Church, Suite 3450, Tucson, AZ 85701
- U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021
- Salt River Project, 1521 Project Drive, Tempe, AZ 85281
- Globe Public Library, 339 S. Broad St., Globe, AZ 85501
- Government Document Service, Arizona State University, Tempe, AZ 85287
- Payson Public Library, 510 W. Main, Payson, AZ 85541
- Phoenix Public Library (Burton Barr Central), 1221 N. Central Ave., Phoenix, AZ 85004
- Tonto Basin Library, 1 School St., Tonto Basin (Punkin Center), AZ 85553

### Background

Roosevelt Dam and Reservoir (Roosevelt) is operated by SRP in conjunction with three other reservoirs on the Salt River and two reservoirs on the Verde River as integral features of the Salt River Reclamation Project, authorized by the Reclamation Act of 1902, and pursuant to a 1917 contract with the United States. Since completion in 1911, Roosevelt has provided water for power generation, irrigation, municipal, and other uses. Currently, SRP reservoirs supply water to more than 1.6 million people in the cities of Phoenix, Mesa, Chandler, Tempe, Glendale, Gilbert, Scottsdale, Tolleson, and Avondale. In addition, water is provided to irrigate agricultural lands within SRP and for other uses. Also, water is delivered to the Salt River Pima-Maricopa Indian Community, Fort McDowell Yavapai Nation, Gila River Indian Community, Buckeye Irrigation Company, Roosevelt Irrigation District, Roosevelt Water Conservation District, and others. Roosevelt and the other SRP reservoirs also provide a variety of recreational uses and environmental benefits in central Arizona. Due to dry conditions in central Arizona for the past six years, the water level at Roosevelt has been below normal. As a result, riparian vegetation has invaded and flourished in the portion of Roosevelt historically used by SRP to store water for use in the Phoenix metropolitan area. Animals that use riparian habitat have followed the

vegetation growth and now occupy areas within the reservoir. In particular, a population of flycatchers now occupies habitat within the storage space at Roosevelt. Thus, periodic refilling of the reservoir may adversely affect habitat used by the flycatcher, clapper rail, bald eagle, and cuckoo.

### Proposed Action

The proposed action is the issuance of an ITP for flycatchers, clapper rails, bald eagles, and cuckoos for SRP's operation of Roosevelt, pursuant to section 10(a)(1)(B) of the Act. The activity that would be covered by the permit is the continued operation of Roosevelt by SRP. The area covered by the permit includes Roosevelt up to an elevation of 2,151 feet, the highest point in the reservoir at which water is stored. The requested term of the permit is for a period of 50 years. To meet the requirements of a Section 10(a)(1)(B) permit, SRP has developed and will implement the RHCP, which provides measures to minimize and mitigate incidental take of flycatchers, clapper rails, and bald eagles to the maximum extent practicable, and which ensures that the incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild. The RHCP also addresses potential impacts on a candidate species, the yellow-billed cuckoo.

### Alternatives

Two other alternatives that were considered by the Service include the following:

1. *No Permit*—No issuance of an ITP by the Service. This alternative would require SRP to do everything within its control to avoid any take of federally listed species associated with its continued operation of Roosevelt.
2. *Re-operation Alternative*—Issuance of an ITP by the Service authorizing the modified operation of Roosevelt to reduce the short-term impact of reservoir operations on listed and candidate species. This alternative includes measures to minimize and mitigate the potential take of federally listed species.

**Geoffrey L. Haskett,**

*Acting Regional Director, Southwest Region.*  
[FR Doc. 02-30386 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### North American Wetlands Conservation Council (Council) Meeting Announcement

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Council will meet to select North American Wetlands Conservation Act (NAWCA) proposals for recommendation to the Migratory Bird Conservation Commission.

The meeting is open to the public.

**DATES:** The meeting will be held on December 3, 2002, at 4 p.m.

**ADDRESSES:** The meeting will be held in the Mexican State of Quintana Roo. The Council Coordinator is located at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MBSP-4075, Arlington, Virginia 22203.

**FOR FURTHER INFORMATION CONTACT:** David A. Smith, Council Coordinator, (703) 358-1784 or [dbhc@fws.gov](mailto:dbhc@fws.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with NAWCA (Pub. L. 101-233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to, and final funding approval by, the Migratory Bird Conservation Commission. Proposals require a minimum of 50 percent non-Federal matching funds. The public is welcome to attend the meeting scheduled for December 3, 2002.

Dated: November 20, 2002.

**Marshall P. Jones, Jr.,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 02-30296 Filed 11-27-02; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[AK-990-03-5101-ER-L016]

#### Final Environmental Impact Statement, Trans-Alaska Pipeline System Right-of-Way Renewal

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability of Final Environmental Impact Statement.

**SUMMARY:** The Bureau of Land Management (BLM) announces the availability of the Final Environmental Impact Statement (FEIS) for renewal of

the Trans-Alaska Pipeline System (TAPS) Right-of-Way Grant. The original grant, issued January 23, 1974, will expire January 22, 2004. The renewal application was filed on May 2, 2001. Three alternatives are considered in the FEIS: The Proposed Action, renew the federal grant for 30 Years, until January 22, 2034; the Time-Dependent Alternative, renew the federal grant for less than 30 years; and the No-Action Alternative, do not renew the federal grant.

**DATES:** The FEIS will be available on November 26, 2002.

**ADDRESSES:** The FEIS and its Executive Summary will be available as a downloadable and searchable Portable Document File (pdf) at the TAPS Renewal EIS Web site, <http://tapseis.anl.gov>. CDs can be ordered from the same site.

Hard copies of the six volume FEIS can be requested in writing from Dr. John Krummel, Argonne National Laboratory EAD/900; 9700 South Cass Avenue; Argonne, Illinois 60439.

Hard copies and CDs of the FEIS are available for review at the following public reading rooms.

**Anchorage:**

Alaska Resources Library and Information Services; 3150 C Street, Suite 100.

Z.J. Loussac Library; 3600 Denali Street.

Bureau of Land Management Public Room; 222 West 7th Avenue.  
State of Alaska, Department of Natural Resources Public Information Center; 550 West 7th Avenue, Suite 1260.

Barrow: Tuzzy Consortium Library; 5421 North Star Street.

Cordova: Cordova Public Library; 622 1st Street.

**Fairbanks:**

Fairbanks North Star Borough Public Library; 1215 Cowles Street.  
Bureau of Land Management Public Room; 1150 University Avenue.  
State of Alaska, Department of Natural Resources Public Information Center; 3700 Airport Way.

**Glennallen:**

Bureau of Land Management;  
Glennallen Field Office, Milepost 186.5, Glenn Highway.

**Juneau:**

Alaska State Library; 333 Willoughby, 8th Floor.

**Valdez:**

Valdez Public Library; 212 Fairbanks Street.

Washington, DC: Department of the Interior Library; 1849 C Street, NW.

**SUPPLEMENTARY INFORMATION:** The FEIS was prepared under authority of the

Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321), as amended; the Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, including Title II, the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651). Argonne National Laboratory, Argonne, Illinois, prepared the FEIS under BLM's supervision and direction.

**FOR FURTHER INFORMATION CONTACT:** Rob McWhorter at the Federal/State Joint Pipeline Office, 411 West 4th Avenue, Suite 2, Anchorage, Alaska 99501, phone (907) 257-1355, or visit the TAPS Renewal EIS Web site, <http://tapseis.anl.gov>.

**Henri Bisson,**

*State Director.*

[FR Doc. 02-30222 Filed 11-27-02; 8:45 am]

**BILLING CODE 4310-JA-P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731-TA-1022 (Preliminary)]**

### Refined Brown Aluminum Oxide From China

**AGENCY:** International Trade Commission.

**ACTION:** Institution of antidumping investigation and scheduling of a preliminary phase investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731-TA-1022 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of refined brown aluminum oxide,<sup>1</sup> provided for in subheading 2818.10.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section

<sup>1</sup> The product covered by this investigation is ground, pulverized, or refined brown aluminum oxide. Crude aluminum oxide is excluded from the scope of the petition.

732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by January 6, 2003. The Commission's views are due at Commerce within five business days thereafter, or by January 13, 2003.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** November 20, 2002.

**FOR FURTHER INFORMATION CONTACT:** Jim McClure (202-205-3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDISON-LINE) at <http://dockets.usitc.gov/eol/public>.

### SUPPLEMENTARY INFORMATION:

**Background.** This investigation is being instituted in response to a petition filed on November 20, 2002, by Washington Mills Co., Inc., North Grafton, MA.

**Participation in the investigation and public service list.** Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO)**

and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference.** The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on December 11, 2002, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202-205-3191) not later than December 9, 2002, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written submissions.** As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 16, 2002, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means except to the extent provided by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: November 22, 2002.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 02-30225 Filed 11-27-02; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Horst G. Blume, M.D.; Revocation of Registration

On July 26, 2002, the Deputy Assistant Administrator, Office of Division Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause by certified mail to Horst G. Blume, M.D. (Dr. Blume), notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AB4035146, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration, pursuant to 21 U.S.C. 823(f), on the ground that, effective August 1, 2001, Dr. Blume voluntarily surrendered his medical license to the Iowa Board of Medical Examiners. The Order also notified Dr. Blume that if a request for hearing is not filed within 30 days of receipt, his right to a hearing would be deemed waived.

The Order to Show Cause was sent to Dr. Blume at his DEA registered premises in Sioux City, Iowa. DEA received a signed receipt indicating that the Order to Show Cause was received on behalf of Dr. Blume at that location. Since that time, DEA has not received a request for hearing or any other reply from Dr. Blume or anyone purporting to represent him in this matter.

Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing has been received concludes that Dr. Blume is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.4 (d) and (e), and 1301.46.

The Deputy Administrator finds that Dr. Blume currently possesses DEA Certificate of Registration AB4035146, issued to him in Iowa. On July 11, 2001, Dr. Blume submitted a letter to the Iowa Board of Medical Examiners in which

he voluntarily surrendered his Iowa medical license and agreed to no longer practice medicine in Iowa, effective August 1, 2001. The letter also stated that Dr. Blume understood that he was not eligible to reapply for medical license in the State of Iowa. The license surrender by Dr. Blume resolved the disciplinary action initiated by the Iowa Board of Medical Examiners. The investigative file contains no evidence that Dr. Blume's medical license has been reinstated in Iowa.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f) and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Willard W. Leiske, M.D., 67 FR 35,588 (2002); Graham Travers Schuler, M.D., 65 FR 50,570 (2000); Romeo J. Perez, M.D., 62 FR 16, 193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Deputy Administrator finds that there is evidence demonstrating that Dr. Blume is not authorized to practice medicine in Iowa, and therefore, the Deputy Administrator infers that Dr. Blume is also not authorized to handle controlled substances in Iowa, the state in which he holds his DEA Certificate of Registration.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AB40335146, previously issued to Horst G. Blume, M.D., be, and is hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective December 30, 2002.

Dated: November 20, 2002.

**John B. Brown, III,**

*Deputy Administrator.*

[FR Doc. 02-30257 Filed 11-26-02; 8:45 am]

**BILLING CODE 4410-09-M**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Christopher E. Castle, M.D., Revocation of Registration

On March 14, 2002, the Deputy Assistant Administrator, Office of



Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause, Immediate Suspension of Registration, to Christopher E. Castle, M.D. (Dr. Castle) of Seymour, Tennessee, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BC1157076 under 21 U.S.C. 824(a), and deny any pending applications for renewal or modification of that registration. The order also notified Dr. Castle that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Castle at his registered location in Seymour, Tennessee. It was also delivered by DEA Investigators to Dr. Castle and his legal counsel on March 19, 2002, at the Blount County Jail in Maryville, Tennessee, where Dr. Castle was incarcerated.

DEA has not received a request for hearing or any other reply from Dr. Castle or anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Castle is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

On November 4, 1987, Dr. Castle obtained DEA Certificate of Registration Number BC1157076, as a practitioner in Schedules II through V. That registration remained valid until August 31, 2002. Pursuant to 21 CFR 1301.36(i), the Deputy Administrator will extend the registration for purposes of this revocation proceeding. On June 3, 2001, the Sevierville (Tennessee) Sheriff's Department arrested an individual referred herein as "RS," and charged him with various offenses related to the possession of controlled substances with intent to distribute. At the time of his arrest, "RS" was in possession of controlled substances from prescriptions that were issued by Dr. Castle. During a subsequent interview of "RS" by the Sevierville Sheriff's Department he informed law enforcement authorities that during his association with Dr. Castle, and in exchange for controlled substance prescriptions, he along with his spouse provided personal services to Dr. Castle, including installation of cabinets and repair of a garage door. "RS" further

informed law enforcement authorities that on numerous occasions, he and his spouse were able to obtain from Dr. Castle prescriptions for any controlled substance they desired, in exchange for cash. Included among the drugs that Dr. Castle authorized for the couple in exchange for cash were Adderall and OxyContin, both highly abused Schedule II controlled substances. A subsequent investigation by DEA revealed that "RS" sold controlled substances to other individuals from prescriptions issued by Dr. Castle.

"RS" also informed law enforcement authorities that while visiting Dr. Castle's home on a prior occasion, he observed several of Dr. Castle's blank prescription pads unsecured in various parts of Dr. Castle's home, as well as prescriptions vials for controlled substances in the names of other individuals. "RS" also recounted one instance where Dr. Castle provided to him OxyContin tablets for his personal use, and for controlled substances in the names of other individuals. "RS" also recounted one instance where Dr. Castle provided to him OxyContin tablets for his personal use, and for no legitimate medical purpose. "RS" further informed law enforcement authorities that he informed Dr. Castle of his June 3, 2001 arrest on drug possession charges. Nevertheless, a subsequent review by DEA of prescription information regarding "RS" revealed that between January and August 2001, Dr. Castle issued prescriptions totaling 900 dosage units of OxyContin 40mg., and 90 dosage units of OxyContin 80mg. Dr. Castle continued issuing controlled substance prescriptions for "RS" up until October 3, 2001, despite Dr. Castle's knowledge of his drug arrest.

In response to the above information, in August 2001, the Tennessee Bureau of Investigation (TBI), the United States Department of Health and Human Services (HHS), and the Sevierville Sheriff's Department initiated investigation of Dr. Castle's medical practice. During a surveillance of Dr. Castle's office, law enforcement agents observed a high volume of persons entering in, and exiting the office for the purpose of obtaining prescriptions. These office visits typically lasted five minutes or less, and some of these individuals had been identified by local law enforcement agents as having prior drug related convictions and/or under investigation for illegal drug violations.

On October 3, 2001, the State of Tennessee, Department of Health (Department of Health) issued to Dr. Castle a Notice of Charges and Memorandum of Assessment of Civil Penalty. In the Notice of Charges, the

Department of Health alleged, among other things, that with respect to its review of Dr. Castle's treatment of eleven patients, Dr. Castle issued prescriptions for controlled substances months before actually examining a patient, and that Dr. Castle dispensed, prescribed, or otherwise distributed controlled substances outside of Dr. Castle's professional practice, and not in good faith to relieve pain or suffering. Specifically, the Department of Health alleged Dr. Castle's improper prescribing with respect to patients referred herein as "DE" and his spouse "JE."

The Notice of Charges further proposed that Dr. Castle pay civil penalties in the amount of \$16,500, and that the State Board of Medicine make a determination as to whether Dr. Castle's medical license be suspended, revoked or otherwise disciplined. That matter is currently pending resolution.

On October 19, 2001, a search warrant was executed at Dr. Castle's office by agents from TBI, HHS, the Tennessee Valley Authority, and the Sevierville County Drug Task Force. During the execution of the warrant, agents seized several patient files, and interviewed an employee of Dr. Castle's office. Dr. Castle's employee confirmed that several of Dr. Castle's patients obtained controlled substance prescriptions in exchange for cash.

On October 19, 2001, Special Agents from HHS, as well as TBI and DEA investigators interviewed a former medical assistant/laboratory technician employed by Dr. Castle's office. The individual informed law enforcement personnel that one occasion, when Dr. Castle was absent from his office in August 2001, Dr. Castle authorized his staff to fill in names, dates, and quantities of controlled substances prescribed on pre-signed prescriptions. These prescriptions were not dated on, or signed on the day when issued as required by 21 CFR 1306.05.

On November 14, 2001, Special Agents from HHS, TBI and the Tennessee Office of Inspector General interviewed another individual herein referred to as "CLF," a former patient as well as a personal acquaintance of Dr. Castle. "CLF" informed law enforcement personnel that over a period of several months, Dr. Castle routinely prescribed Adderall in "CLF's" name, and had her return portions of the filled prescription to Dr. Castle for his personal use. "CLF" further informed that Dr. Castle never performed a physical examination before writing prescriptions in her name, and that Dr. Castle frequently



issued prescriptions while dining with her in a local restaurant.

In December 2001, Dr. Castle was named as a defendant in a \$2,500,000 civil lawsuit filed in Sevier County Circuit Court by a former employee of Dr. Castle's medical practice. The suit alleged in part that Dr. Castle provided pain medications to his former employee when she was sixteen years old, prescribed pain medications while she was pregnant, and contributed to her addiction until the time she left Dr. Castle's employ at the age of twenty-one. The suit further alleges that Dr. Castle's actions contributed to the December 6, 2000, overdose on pain medications by the employee, which eventually led her to seek detoxification the following week. That matter is also pending resolution.

On January 10, 2002, DEA investigators conducted surveys of three pharmacies where several of Dr. Castle's patients had prescriptions filled: the pharmacies were Jabo's Pharmacy located in Newport, Tennessee; Murphy's Sav-Mor Pharmacy located in Jefferson City, Tennessee; and Mugford's Pharmacy located in Knoxville, Tennessee. The surveys revealed, that following the issuance to Dr. Castle of the Notice of Charges, as well as the execution of a search warrant at Dr. Castle's office, Dr. Castle continued to issue numerous Schedule II through IV controlled substance prescriptions for "DE" and "JE." As noted above in paragraph six, the Department of Health alleged Dr. Castle's improper prescribing with respect to patients "DE" and his spouse "JE." DEA's investigation revealed that between October 15, 2001 to January 12, 2002, these individuals had their prescriptions filled at different pharmacies including each of the above pharmacies.

DEA's review of prescriptions authorized by Dr. Castle, and obtained from Murphy's Sav-Mor Pharmacy revealed a Dandridge, Tennessee home address for "DE" and "JE." Yet, a review of written prescriptions filled by "DE" and "JE" at Mugford's Pharmacy revealed a Knoxville, Tennessee home address for the couple. These addresses were not included on the prescriptions that were issued by Dr. Castle, and were added to the prescriptions by someone other than Dr. Castle. A subsequent investigation by DEA revealed that Dr. Castle failed to list addresses on prescriptions issued to "DE" and "JE," as well as numerous prescriptions issued to other patients, as required by 21 CFR 1306.05(a).

On February 11, 2002, Special Agents from HHS, TBI and the Tennessee Office

of Inspector General interviewed an individual herein referred to as "JS." "JS" informed law enforcement officials that he had a long-term history of narcotic abuse and had purchased OxyContin from "RS" (referenced in paragraphs two through four above). "JS" further informed that Dr. Castle wrote prescriptions for OxyContin and Adderall for him in the name of the wife of "JS." "JS" further informed law enforcement personnel that his wife had never been to Dr. Castle's office, and was not aware that Dr. Castle issued prescriptions in her name for "JS." "JS" also informed that Dr. Castle created fictitious patient information in the name of his wife. Law enforcement personnel from the above agencies later conducted an interview of the wife of "JS" and she confirmed that she had never received any controlled substance prescriptions from Dr. Castle, nor had she ever visited Dr. Castle's office.

The investigation of Dr. Castle's practice also revealed that on or around September 6, 2001, "JS" requested that Dr. Castle send to him a prescription for OxyContin in his wife's name. Several days later, "JS" found the requested prescription in his mail box in his wife's name, which had been mailed from Dr. Castle's office and signed by Dr. Castle. DEA's investigation further revealed that between November and December 2001, Dr. Castle issued several Schedule II controlled substance prescriptions for "JS" in his wife's name.

On February 21, 2002, the Sevier County Street Crimes Unit executed a search warrant at Dr. Castle's medical practice. During the execution of the warrant, law enforcement officers recovered from Dr. Castle's person several syringes, including some that had been used. The syringes contained Adderall.

In November 2001, Dr. Castle was indicted in the United States District Court, Eastern District of Tennessee, on one count of possession of child pornography. However, after posting a \$50,000 bond, Dr. Castle was granted pretrial release on November 7, 2001. As a condition of Dr. Castle's release, Dr. Castle was ordered not to download child pornography from Dr. Castle's personal computer, carry a firearm, or engage in the personal use of drugs. Nevertheless, an investigation by the Tennessee Office of Inspector General revealed that Dr. Castle continued to download child pornography in violation of a condition set by Dr. Castle's pretrial release. As a result, on February 26, 2002, the court ordered the revocation of Dr. Castle's bond, and further ordered Dr. Castle detained until Dr. Castle's May 7, 2002, trial on a

charge of possession of child pornography.

In view of the foregoing, and pursuant to 21 U.S.C. 824(d), I find that Christopher E. Castle, M.D. has been responsible for the diversion of large quantities of controlled substances into other than legitimate medical channels. It is my conclusion that Dr. Castle has committed such acts as would render his continued registration inconsistent with the public interest. 21 U.S.C. 824(a)(4). Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BC1157076, issued to Christopher E. Castle, M.D. be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal or modifications of such registration be, and they hereby are, denied. This order is effective December 30, 2002.

Dated: November 12, 2002.

**John B. Brown, III,**  
*Deputy Administrator.*

[FR Doc. 02-30255 Filed 11-27-02; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### Joseph H. Talley, M.D.; Revocation of Registration

On January 28, 2002, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause and Notice of Immediate suspension of Registration to Joseph H. Talley, M.D. (Respondent) of Grover, North Carolina. The Respondent was notified of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration AT2853706, as a practitioner, and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f) and 824(a) for reason that his continued registration would be inconsistent with the public interest. The order further notified the Respondent that his DEA registration was immediately suspended as an imminent danger to the public health and safety pursuant to 21 U.S.C. 824(d).

The order to Show Cause and Notice of Immediate Suspension alleged the following:

1. (The Respondent) is registered with DEA as a practitioner under DEA Registration No. AT2853706 for Schedules II, II-N, III, III-N, IV and V. The DEA registration was last renewed

on November 13, 2000. The registered location is PO Box 45, 318 Laurel Avenue, Grover, NC 28073.

2. (The Respondent) regularly engaged in the practice of prescribing excessive amounts of controlled substances, including combinations of Schedule II and III controlled substances such as OxyContin (II), Methodone (II) and Hydrocodone (III), along with a benzodiazepine such as Alprazolam (IV), to patients for no legitimate medical reason. (The Respondent's) patients have been associated with drug trafficking and drug abuse, and numerous patients have died due to drug overdose. The North Carolina Medical Board has filed charges alleging, in part, that (the Respondent's) practice of dispensing controlled substances falls below acceptable standards of care. Finally, (the Respondent has) circumvented DEA regulations by, in effect, post-dating Schedule II controlled substance prescriptions and maintaining at (his) registered location controlled substances that allegedly were returned to (the Respondent) by (his) patients.

3. During an interview with North Carolina investigators on March 13, 2001, (the Respondent) stated that (his) normal prescribing practice is to use at least two (2) opiates along with antidepressants, and that (he uses) Xanax and Klonopin because Xanax is short acting and Klonopin lasts longer. (The Respondent) also said that modern pain management calls for maintaining a level of drugs in the patient's system all the time, and at least 50 percent pain-related patients also suffer from anxiety and depression.

4. (The Respondent's) patients routinely received minimal or no medical examinations prior to receiving controlled substance prescriptions. Some of these patients were out-of-state patients who were treated after telephone consultations. (The Respondent has) numerous patients who are out-of-state patients from states including Tennessee, South Carolina, Georgia, Oklahoma, California, Wisconsin, Missouri, Rhode Island, New Jersey, New York, Louisiana, Florida and Alabama. Most of these patients were interviewed over the telephone rather than seen in person. The patients describe their symptoms during a telephone call every three months and receive prescriptions for controlled substances.

5. DEA obtained the prescription profiles of mail order customers of Medi Fare Drug Center, 100 Laurel Avenue, PO Box 309, Grover, NC 28073. The profiles revealed that approximately 60 customers were (the Respondent's)

patients who lived in north central South Carolina, an hour or so distance from Grover, NC. Many of these patients received excessive amounts, in combination, of the following controlled substances: Morphine Sulfate (Schedule II), Methadone (Schedule II), Oxycodone (Schedule II), Hydromorphone (Schedule II), Hydrocodone (Schedule III), Hydromorphone (Schedule II), Hydrocodone (Schedule III), Alprazolam (Schedule IV), Diazepam (Schedule IV), and/or Ambien (Schedule IV).

6. For instance, the prescription profiles of the following mail order customers revealed that:

A. Patient Sally B. received prescriptions for, among other things:

*Date and Medication*

3/13/00  
#248 Hydrocodone/APAP 10-650  
#93 Alprazolam 2 mg  
#90 Methylphenidate 20 mg [Ritalin]

3/28/00  
#250 OxyContin 80 mg  
#360 Percocet 10/650

4/14/00  
#248 Hydrocodone/APAP 10-500  
#93 Alprazolam 2 mg

4/26/00  
#248 OxyContin 80 mg  
#93 Alprazolam 2 mg

5/24/00  
#279 OxyContin 80 mg  
#93 Alprazolam 2 mg  
#90 Methylphenidate 20 mg

6/20/00  
#279 OxyContin 80 mg  
#93 Alprazolam 2 mg  
#360 Percocet 10-650  
#93 Lipitor 40 mg

7/19/00  
#279 OxyContin 80 mg  
#93 Alprazolam 2 mg

7/21/00  
#90 Prozac 20 mg  
#31 Furosemide 40 mg

B. Patient Debra M. received prescriptions for, among other things:

*Date and Medication*

5/1/00  
#155 OxyContin 80 mg  
#100 Oxycodone 5-500  
#93 Alprazolam 2 mg  
#30 Diazepam 10 mg

6/1/00  
#155 OxyContin 80 mg  
#100 Oxycodone 5-500  
#93 Alprazolam 2 mg  
#30 Diazepam 10 mg

C. Patient George N. received prescriptions for, among other things:

*Date and Medication*

5/10/00  
#186 Hydrocodone/APAP 10-500  
#136 Alprazolam 2 mg

#120 carisoprodol 350 mg  
#62 Prozac 20 mg

6/5/00  
#186 Hydrocodone/APAP 10-500  
#136 Alprazolam 2 mg  
#120 carisoprodol 350 mg  
#62 Prozac 20 mg  
#47 Remeron 30 mg

7/5/00  
#186 Hydrocodone/APAP 10-500  
#136 Alprazolam 2 mg  
#120 carisoprodol 350 mg  
D. Patient James W. received prescriptions for, among other things:

*Date and Medication*

4/18/00  
#186 OxyContin 80 mg  
#124 Hydromorphone 4 mg  
#60 Promethazine 50 mg

5/17/00  
#186 OxyContin 80 mg  
#124 Hydromorphone 4 mg  
#60 Promethazine 50 mg  
E. Patient Debra C. received prescriptions for, among other things:

*Date and Medication*

6/7/00  
#124 Hydrocodone/APAP 10-500  
#124 Alprazolam 2 mg  
#31 Trazodone 100 mg  
#124 Carisoprodol 350 mg

6/8/00  
#36 Dilaudid 3 mg  
#124 MS CP 60 mg

7/7/00  
#124 Hydrocodone/APAP 10-500  
#124 Alprazolam 2 mg  
#31 Trazodone 100 mg  
#124 Carisoprodol 350 mg  
#36 Dilaudid 3 mg  
#124 MS S.R. CP 60 mg  
F. Patient Charles K. received prescriptions for, among other things:

*Date and Medication*

4/3/00  
#248 Hydrocodone/APAP 10-500  
#93 Methadone 40 mg  
#62 Alprazolam 2 mg

5/3/00  
#248 Hydrocodone/APAP 10-500  
#93 Metadose 40 mg  
#62 Alprazolam 2 mg

6/2/00  
#248 Hydrocodone/APAP 10-500  
#93 Methadone 40 mg  
#62 Alprazolam 2 mg

6/30/00  
#248 Hydrocodone/APAP 10-500  
#93 Methadone 40 mg  
#62 Alprazolam 2 mg (RX 313579)  
#62 Alprazolam 2 mg (RX 313574)

7. (The Respondent's) patients have been observed in (his) office discussing what prescriptions they would obtain from (him) and what they planned to do with the medication after obtaining it.

Patients also have been observed selling controlled substances in the parking lot outside of (the Respondent's) medical office.

8. (The Respondent's) patients have been implicated in drug dealing activities. For instance, (the Respondent) prescribed OxyContin for (his) patient, Debra M., who was known to trade her OxyContin for Methadone tablets. She also sold OxyContin for the following prices:

OxyContin 160 mg—\$40/tab OxyContin 40 mg—\$10/tab

OxyContin 80 mg—\$20/tab OxyContin 20 mg—\$5/tab

9. (The Respondent has) two patients who are husband and wife, Jerry C. and Carol C., both of whom are engaged in the abuse of Methadone. (The Respondent) continued to prescribe Methadone to them even though (he) knew or had reason to know that Jerry C. and Carol C. were abusing Methadone. When she rolled up her sleeves, Carol C.'s arms were covered with sores and her veins displayed huge knots consistent with drug abuse. Despite being informed that Jerry C. and Carol C. both admitted to drug abuse, (The Respondent) continued to write controlled substance prescriptions for them.

10. (The Respondent has) written controlled substance prescriptions for pregnant women and told them that taking narcotics would not harm their newborn babies. The newborn baby of one of (the Respondent's) former patients, Alice P., was born addicted to Methadone.

11. On May 14, 1999, (the Respondent) contacted the Spartanburg County, SC, Coroner's Office and spoke to (a representative from that office) regarding the death of Darrell S. During that conversation, (the Respondent) stated that the Spartanburg Co. Coroner's Office would be seeing (the Respondent's) name and the name of (his) clinic more often because doctors in Spartanburg would not give "these people" the medications that they needed, and sometimes (the Respondent) lose(s) some.

12. At least 23 of (the Respondent's) former patients have died, in part, due to drug overdoses.

13. On June 6, 2001, patient Teresa B., died of a drug overdose. (The Respondent) saw her as a patient on or about the day of her death and (he) issued her a prescription for controlled substances, including but not limited to Methadone. Teresa B. was known to receive a prescription for more than 100 Methadone tablets per month. During the evening hours of the date in which

Teresa B. died, another one of (the Respondent's) patients, Debra M., visited the residence of Teresa B., for the purpose of exchanging Debra M.'s OxyContin for Teresa B.'s Methadone.

14. Debra M. traded her OxyContin that she received, based upon (the Respondent's) prescriptions, with Teresa B. as well as other drug abusers. Debra M. would exchange one (1) OxyContin 80 mg tablets for two (2) Methadone 40 mg tablets and had, over a period of time, exchanged hundreds of OxyContin tablets with Teresa B. Debra M. also engaged in sales of large quantities of OxyContin tablets.

15. On March 17, 2001, Kimberly (P.), age 24, died. She and her husband were (Respondent's) patients and both were drug abusers. A prescription profile from Fallston Pharmacy, Fallston, NC, indicated that Kimberly (P.) received prescriptions from the Respondent for the following:

#### *Date and Medication*

11/28/00

#124 Alprazolam 2 mg

#50 Oxycodone/APAP 5–325

12/27/00

#124 Alprazolam 2 mg

1/19/01

#3 Stadol 10 mg/ml

1/25/01

#124 Alprazolam 2 mg

2/26/01

#124 Alprazolam 2 mg

16. During the months of February and March 2001, Kimberly (P.'s) husband, Timothy (P.) received prescriptions from (the Respondent) that were filled at Fallston Pharmacy for the following medications:

#### *Date and Medication*

2/14/01

#75 Alprazolam 2 mg

#93 Hydrocodone 10–600

3/14/01

#120 Hydrocone 10–600

#140 Methadone 10 mg

#31 Clonazepam 2 mg

17. A prescription profile for Kimberly (P.) for the same time period from Medi Fare Drug Center, Grove, NC, indicated that she received prescriptions from (the Respondent) for the following:

#### *Date and Medication*

2/26/01

#120 Roxicet TA, 5–325

#20 Dilaudid 3 mg

#30 Prozac 20 mg

3/14/01

#14 Prozac 20 mg

#30 Prozac 20 mg

18. During the months of February and March 2001, Kimberly (P.'s)

husband, Timothy (P.), received prescriptions from (the Respondent) that were filled at Medi Fare Drug Center, Grover, NC, for the following:

#### *Date and Medication*

1/12/01

#90 Hydrocodone 10–650

#75 Alprazolam 2 mg

#124 Oramorph 15 mg

2/9/01

#9 Hydrocodone 10–650

#4 Clonazepam 1 mg

3/14/01

#78 Alprazolam 2 mg

19. On or about April 12, 2001, Roger H., 50 years old, died at his home. Numerous pills were found on and around his body. The decedent was (the Respondent's) former patient and had completed rehabilitation for opiate abuse during December 2000. (The Respondent's) office was advised in January 2001 that Roger H. had recently undergone drug rehabilitation treatment. The cause of death was overdose of Oxycodone. The blood level of Oxycodone was .55 mg/L, which was well above the therapeutic level of .05 mg/L, and even above the potentially lethal level of .4 mg/L. The Respondent prescribed to the decedent #120 OxyContin, #63 Percocet and an unknown quantity of Roxicodone per month.

20. On March 26, 2001, DEA became aware of five (5) recent deaths of individuals residing in Union County, SC. Each of these individuals were former patients of (the Respondent). These individuals included: Terry J., Marshall S., George N., Debra G., and Tracey C. The cause of death for each of the patients, with the exception of Tracey C., was drug overdose. Although Tracey C.'s death was ruled to be due to cardiac arrhythmia, he had a history of drug abuse and his blood contained metabolites of controlled substances. Tracey C. and Terry J. were known to have obtained OxyContin from Debra M., and Debra M. was one of (the Respondent's) patients.

a. Terry J. died of respiratory insufficiency secondary to synergistic drug overdose.

b. Marshall S. died of respiratory arrest secondary to drug overdose.

c. George N died of respiratory insufficiency secondary to synergistic drug overdose.

d. Debra G. died of respiratory arrest from cardiomyopathy, but multiple drug ingestion was a contributing factor.

21. On December 4, 2001, DEA received from the North Carolina Office of the Chief Medical Examiner, among other things, copies of six (6) autopsy reports of former patients of (the

Respondent) who died of causes related to Oxycodone ingestion. The decedents lived in Gaston, Cleveland and Rutherford Counties in North Carolina and included the above mentioned Roger H., as well as the following individuals (approximate date of death listed after the name):

- a. David M., 3/27/01.
- b. Pamela Jean B., 1/5/00.
- c. Clifford Ray G., 4.13/00.
- d. David B., 8/16/00.
- e. Adenna S., 12/3/00.

22. On October 10, 2001, the North Carolina Medical Board (Medical Board) issued a Notice of Charges and Allegations against (the Respondent). The complaint alleged that (the Respondent) self-prescribed, diverted and stockpiled the weight-loss drug Pondimin (Fenfluramine) for personal consumption without conferring with or receiving a prescription from (his) personal physician. In addition, the Medical Board alleged that (the Respondent) deviated from acceptable standards of medical care in a manner directly related to (his) dispensation and prescription of controlled substances. Specifically, the Medical Board alleged, with regard to (his) treatment of patients, (the Respondent):

- a. Failed to perform adequate physical or objective examinations in order to properly evaluate or diagnose the etiology of patients' complaints;
- b. Failed to perform follow-up physician examinations of patients including appropriate laboratory studies to rule out or confirm the causes of pain prior to instituting opioid therapy;
- c. Failed to inquire during each patient visit as to whether patients received medications from other physicians or sources even though (the Respondent) knew or had reason to believe that many patients had a history of inappropriately obtaining drugs or engaging in substance abuse;
- d. Failed to monitor patient compliance with (the Respondent's) prescribed therapeutic regime through appropriate laboratory studies and fluid screens even though (he) knew or had reason to believe that many patients had a history of inappropriately obtaining drugs or engaging in substance abuse.
- e. Failed to insist that all prescriptions for each patient be filled at a single pharmacy in order to adequately monitor patient care even though (the Respondent) knew or had reason to know that many patients had a history of inappropriately obtaining drugs or engaging in substance abuse;
- f. Failed to measure the degree and variations of pain symptoms in order to properly evaluate the effectiveness of therapy; and

g. Failed to vary treatment or attempt non-opioid therapy, even though (the Respondent) knew or had reason to believe that many patients had a history of inappropriately obtaining drugs or engaging in substance abuse.

22. On or about June 11, 2001, (the Respondent was) informed by DEA investigative personnel that (he was) not permitted to possess controlled substances that had been dispensed to (his) patients by virtue of prescriptions written by (the Respondent). (The Respondent) told DEA investigative personnel that (he) had been collecting and storing patients' controlled substances. These patients reportedly could no longer take their medications, sometimes due to allergic reactions. (The Respondent) said that (he) would write the patient a new prescription for a different medication and take possession of the old, discontinued controlled substance. DEA personnel informed (the Respondent) that the patients' controlled substances belonged to them and that (the Respondent) could not possess them.

23. On October 3, 2001, DEA and state investigative personnel conducted an audit of the controlled substances at (the Respondent's) registered location. In a closet, they located a cabinet full of controlled substances that (the Respondent) took from (his) patients when (he) changed their medications. Investigators told (the Respondent), as they had on June 11, 2001, that once the controlled substance has been dispensed to the patient, (the Respondent) could not possess it. DEA completed its audit of (the Respondent's) registered premises on October 4, 2001, and then destroyed hundreds of dosage units of controlled substances, including, but not limited to Methadone, OxyContin, Oramorph, Methylphenidate and Hydromorphone.

24. (The Respondent) circumvented DEA regulations by issuing multiple prescriptions for a 30-day supply of controlled substances, including those in Schedule II, to patients including but not limited to patient Teresa B. The prescriptions included the phrase "do not fill until (insert date, either 30 or 60 days from the date on the prescription)." The patients would then return to the Medi Fare Drug Center on a monthly basis, either 30 or 60 days after their visit to (the Respondent's) office, to fill their prescription(s). This had the effect of circumventing DEA regulations by, in effect, permitting (the Respondent's) patients to obtain refills of Schedule II prescriptions. Under DEA regulations, prescriptions are to be dated as of the date of issue. See 21 CFR 1306.05(a) ("All prescriptions for

controlled substances shall be dated as of, and signed on, the day when issued \* \* \*") Prescriptions for Schedule II controlled substances are not refillable. See 21 CFR 1306.12 ("The refilling of a prescription for a Schedule II controlled substances listed in Schedule II is prohibited").

By letter dated February 26, 2002, the Respondent requested a hearing in this matter. After the parties filed respective prehearing submissions, on June 26, 2002, the Government filed a Request for Stay of Proceedings and Motion for Summary Disposition. In support of its motion, the Government asserted that on June 20, 2002, the Medical Board issued Findings of Fact, Conclusions of Law and Order of Discipline in a disciplinary proceeding against the Respondent. The Medical Board's action resulted in the indefinite suspension of the Respondent's medical license, effective April 18, 2002.

On March 28, 2002, Administrative Law Judge Gail A. Randall (Judge Randall) issued her opinion, Order, and Recommended Ruling of the Administrative Law Judge (Opinion and Recommended Ruling). In her Opinion and Recommended Ruling, Judge Randall granted the Government's motion for summary disposition, and found that the Respondent lacks authorization to handle controlled substances in the State of North Carolina, and that the Respondent's medical license is unlikely to be reinstated in the near future.

In granting the Government's motion, Judge Randall also recommended that the Respondent's DEA registration be revoked and any pending applications for modification or renewal be denied. Neither party filed exceptions to her Opinion and Recommended Ruling, and on August 21, 2002, Judge Randall transmitted the record of these proceedings to the Office of the Deputy Administrator.

The Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Deputy Administrator adopts, in full, the Opinion and Recommended Ruling of the Administrative Law Judge.

The Deputy Administrator finds that in its June 20, 2002 Order, the Medical Board reached findings that were alleged in its October 10, 2001 Notice of Charges. Those findings included *inter alia*, that the Respondent routinely failed to inquire as to whether a patient received medications from other physicians or sources when he knew or had reason to believe the patient was

abusing drugs. The Medical Board also found that the Respondent diverted and stockpiled the weight-loss drug Pondimin (Fenfluramine) (a Schedule IV controlled substance) for his personal use by asking the patients to return their supplies of the drug to him. Consistent with its findings and conclusions, the Medical Board ordered the indefinite suspension of the Respondent's North Carolina medical license. In addition, the Medical Board ordered that the Respondent may petition for reinstatement of his medical license "no sooner than April 18, 2003."

There is no evidence before the Deputy Administrator to rebut findings that effective April 18, 2002, the Respondent's license to practice medicine in the State of North Carolina was indefinitely suspended and that he is not eligible to petition for reinstatement of that license until April 18, 2003. Therefore, the Deputy Administrator finds that since the Respondent is not currently authorized to practice medicine in North Carolina, it is reasonable to infer that he is not authorized to handle controlled substances in that state.

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Joseph Thomas Allevi, M.D.*, 67 FR 35581 (2002); *Dominick A. Ricci, M.D.*, 58 FR 51104 (1993); *Bobby Watts, M.D.*, 53 FR 11919 (1988).

The parties do not dispute the fact that Respondent is currently without authorization to handle controlled substances in North Carolina. Therefore, it is well settled that when no question of material fact is involved, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not obligatory. See *Gilbert Ross, M.D.*, FR 8664 (1996); *Philip E. Kirk, M.D.*, 48 FR 32,887 (1983), *aff'd sub nom Kirk v. Mullen*, 749 F.2d 297 (6th Cir. 1984); *NLRB v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977). This standard also applies in matters involving the immediate suspension of a DEA Certificate of Registration under 21 U.S.C. 824(d). *Chemical Dependence Associates of Houston*, 58 FR 3705 (July 12, 1993).

Here, it is clear that the Respondent is not licensed to handle controlled substances in North Carolina. Since

Respondent lacks such authority, he is not entitled to a DEA registration in that state. In light of the above, Judge Randall properly granted the Government's Motion for Summary Disposition.

Because the Respondent is not entitled to a DEA registration in North Carolina due to his lack of state authorization to handle controlled substances, the Deputy Administrator concludes that it is unnecessary to address whether the Respondent's registration should be revoked based upon the other grounds asserted in the Order to Show Cause and Notice of Immediate Suspension of Registration. See *Nathaniel-Aikens-Afful, M.D.*, 62 FR 16871 (1997).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AT2853706, issued to Joseph H. Talley, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective December 20, 2002.

Dated: November 20, 2002.

**John B. Brown, III,**  
*Deputy Administrator.*

[FR Doc. 02-30256 Filed 11-27-02; 8:45 am]

BILLING CODE 4410-09-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### **Clark G. Triftshauser, M.D., Revocation of Registration**

On May 13, 2002, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Clark G. Triftshauser, M.D. (Dr. Triftshauser) of Albion, New York, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BT5294866, under 21 U.S.C. 824(a), and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Triftshauser is not currently authorized to handle controlled substances in New York, the state in which he practices. The OTSC also alleged that Dr. Triftshauser had been convicted of a felony related to controlled substances and had otherwise committed acts that would

render his registration inconsistent with the public interest. The order notified Dr. Triftshauser that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Triftshauser at his registered location in Albion, New York and to the new York State Groveland Correctional Facility in Sonyea, New York, where Dr. Triftshauser is presently incarcerated. DEA received a signed receipt indicating that the Order to Show Cause was received on Dr. Triftshauser's behalf at the correctional facility on May 20, 2002. DEA has not received a request for hearing or any other reply from Dr. Triftshauser or anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Triftshauser is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that on October 28, 1987, Dr. Triftshauser was issued DEA Certificate of Registration, AT6847240, in Schedules II through V. In 1987, Dr. Triftshauser's medical license was suspended after it was discovered that he had obtained Dexedrine, a Schedule II controlled substance, for his personal use. On March 21, 1991, Dr. Triftshauser surrendered his New York state medical license after it was discovered that over a thirty-two month period, he had obtained hydrocodone syrup (a Schedule III controlled substance) for his personal use. As a result, on December 14, 1991, Dr. Triftshauser surrendered DEA Certificate of Registration, AT6847240.

On June 30, 1994, Dr. Triftshauser's medical license was restored and he was placed on a five-year period of probation. As part of his probation, he agreed to refrain from the personal use of controlled substances and submit to random urinalysis for detection of any misuse of drugs. These urine screens were to be administered by the Committee for Physicians' Health of the State of New York Medical Society ("CPH").

In May 1995, Dr. Triftshauser submitted a new application for DEA Certificate of Registration. He materially falsified that application by failing to disclose the 1987 suspension of his New York medical license, as well as his

March 1991 surrender of that license. In lieu of further proceedings to deny his application for DEA registration, on April 1, 1997, Dr. Triftshauser entered into a Memorandum of Agreement with DEA, in which he agreed to several terms and conditions. Among the terms agreed upon by the parties was the limiting of Dr. Triftshauser's registration to Schedules IV and V. Accordingly, on April 17, 1997, Dr. Triftshauser was issued DEA Certificate of Registration, BT5294866, as a practitioner, authorized to handle controlled substances in Schedules IV and V. That registration remains valid through November 30, 2002.

In November 1998, Dr. Triftshauser underwent a random urine screen. The screen came back positive for Librium (chlordiazepoxide), a Schedule IV controlled substance. As a result of your positive drug screen, Dr. Triftshauser was referred by CPH for evaluation of further drug treatment and increased urine monitoring.

Following Dr. Triftshauser's second stint of drug evaluation and treatment, he was referred to a Medina, New York, physician, who agreed to employ him in his practice and act as his program monitor. In or around 2001, an investigation by the New York State Department of Health, State Board of Professional Medical Conduct, (the Board) revealed that between September 2000 and February 2001, Dr. Triftshauser falsified seven prescriptions for Lortab, a Schedule III controlled substance, and later presented them to be filled at several pharmacies. Specifically, Dr. Triftshauser falsely represented that the above prescriptions were issued to him by his employing physician.

On February 21, 2001, Dr. Triftshauser was arrested in Genesee County, New York, and charged with criminal possession of a forged instrument (prescription). Following his pre-trial release from prison, he was arrested on March 29, 2001, by the Medina New York Police Department and charged with forgery of a controlled substance. He was subsequently indicted on two counts of criminal possession of a forged instrument, two counts of criminal possession of a controlled substance, and two counts of falsifying business records. On February 8, 2002, in the Orleans County District Court State of New York, Dr. Triftshauser entered a guilty plea to one count of criminal possession of a forged instrument. He was sentenced to imprisonment of between two and seven years and assessed a fine of \$5,000. Therefore, he has been convicted of a

felony related to controlled substances. 21 U.S.C. 824(a)(2).

On July 20, 2001, the Board issued a Final Order revoking Dr. Triftshauser's license to practice medicine. His medical license has not been reinstated. Therefore, he is not currently authorized to handle controlled substances in the State of New York. 21 U.S.C. 824(a)(3).

DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Muttaiya Darmarajeh, M.D., 66 FR 52936 (2001); Dominick A. Ricci, M.D., 58 FR 51104 (1993); Bobby Watts, M.D., 53 FR 11919 (1988).

Here, it is clear that Dr. Triftshauser is not licensed to handle controlled substances in the State of New York, where he is registered with DEA. Therefore, he is not entitled a DEA registration in that state. Moreover, Dr. Triftshauser has been convicted of a felony relating to controlled substances and has otherwise committed such acts as would render his registration inconsistent with the public interest.

Accordingly, the Deputy Administration of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BT5294866, issued to Clark G. Triftshauser, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective December 30, 2002.

Dated: November 12, 2002.

**John B. Brown, III,**

*Deputy Administrator.*

[FR Doc. 02-30253 Filed 11-27-02; 8:45 am]

**BILLING CODE 4410-09-M**

## **DEPARTMENT OF JUSTICE**

### **Drug Enforcement Administration**

#### **Johnnie Melvin Turner, M.D.; Revocation of Registration**

On June 18, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Johnnie Melvin Turner, M.D. (Dr. Turner) of Chicago Illinois, notifying him of an opportunity to show cause as to why DEA should

not revoke his DEA Certificate of Registration, BT5794866 under 21 U.S.C. 824(a), and deny any pending applications for renewal or modification of that registration. As a basis for revocation, the Order to Show Cause alleged that Dr. Turner is subject to a ten year exclusion from participation in Medicare. The order also notified Dr. Turner that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent by certified mail to Dr. Turner at his work address in Chicago, Illinois. The letter was returned unclaimed. A second Order to Show Cause was sent on October 17, 2001, by certified mail, to another address where Dr. Turner was purportedly working. Again, the letter was again returned unclaimed, and DEA has been unable to determine Dr. Turner's current whereabouts. DEA has not received a request for hearing or any other reply from Dr. Turner or anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Turner is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Deputy Administrator finds that Dr. Turner currently possesses DEA Certificate of Registration BT5794866. That registration expired on November 2000, but the Deputy Administrator hereby extends the registration for purposes of this revocation proceeding. 21 CFR 1301.37(i). The Deputy Administrator further finds that from January 6, 1992 to April 1994, Dr. Turner, along with two other individuals, submitted numerous fraudulent claims in excess of \$100,000 to the Illinois Medicare-Part B Program, by billing for services that were not rendered, and as a result, Dr. Turner obtained fees that he was not entitled to.

As a result of Dr. Turner's fraudulent activity, in September 1998, he was indicted in the United States District Court, Northern District of Illinois (Eastern Division) on eleven felony counts related to his improper billing practices. On October 20, 1998, he entered a guilty plea to one felony count of mail fraud. On May 11, 1999, he was sentenced five years probation and ordered to pay restitution of \$106,132 to the United States Department of Health and Human Services.

As a result of Dr. Turner's conviction, on August 31, 1999, he was notified by the Department of Health and Human Services of his ten-year mandatory exclusion from participation in the Medicare program pursuant to 42 U.S.C. 1320a-7(a). Effective September 17, 1999, the Illinois Department of Public Aid terminated him from that State's Medical Assistance Program. Exclusion from Medicare is an independent ground for revoking a DEA registration. 21 U.S.C. 824(a)(5).

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BT5794866, issued to Johnnie Melvin Turner, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective December 30, 2002.

Dated: November 12, 2002.

**John B. Brown, III,**

*Deputy Administrator.*

[FR Doc. 02-30254 Filed 11-27-02; 8:45 am]

**BILLING CODE 4410-09-M**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** 60-Day Notice of Information Collection Under Review; Project Speak Out! Biographical Information/Program Eligibility Questionnaire and Project Speak Out! Initial Interview Form; Forms I-908 and I-909.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until January 28, 2003.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a Currently Approved Information Collection.

(2) *Title of the Form/Collection:* Biographical Information/Program Eligibility Questionnaire and Practitioner Fraud Pilot Program Initial Interview Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Forms I-908 and I-909. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This information collection will be used by the INS to identify unscrupulous immigration practitioners who intentionally defraud undocumented alien victims.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,000 responses at 1 hour response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 5,000 and burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-514-3291, Director, Regulations and Forms Services Division, Immigration and Naturalization Service, U.S. Department of Justice, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: November 22, 2002.

**Richard A. Sloan,**

*Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.*

[FR Doc. 02-30264 Filed 11-27-02; 8:45 am]

**BILLING CODE 4410-10-M**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

[INS No. 2240-02]

#### Immigration and Naturalization Service Airport and Seaport Inspections User Fee Advisory Committee Meeting

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of meeting.

*Committee meeting:* Immigration and Naturalization Service Airport and Seaport Inspections User Fee Federal Advisory Committee.

*Date and time:* Wednesday, February 12, 2003, at 1 p.m.

*Place:* Immigration and Naturalization Service Headquarters, 425 I Street NW, Washington, DC 20536, Shaughnessy Conference Room, Sixth Floor.

*Status:* Open. Twenty-fifth meeting of this Advisory Committee.

*Purpose:* Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service (INS) pursuant to section 286(k) of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act, 5 U.S.C. app. 2. The responsibility of this standing Advisory Committee is to advise the INS Commissioner on issues related to the performance of Airport and Seaport Immigration Inspection Services. This advice should include, but need not be limited to, the time period which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to section 286(d) of the INA, as amended, 8 U.S.C. 1356(d). The Advisory Committee focuses its attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government.



**Agenda**

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of future traffic trends.
6. Discussion of relevant written statements submitted in advance by members of the public.
7. Scheduling of next meeting.

**Public participation:** The meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify the contact person at least 5 days prior to the meeting. Members of the public may submit written statements at any time before or after the meeting to the contact person for consideration by this Advisory Committee. Only written statements received by the contact person at least 5 days prior to the meeting will be considered for discussion at the meeting.

**Contact person:** Charles D. Montgomery, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 4064, 425 I Street NW., Washington, DC 20536; telephone: (202) 616-7498; fax: (202) 514-8345; or e-mail: [charles.d.montgomery@usdoj.gov](mailto:charles.d.montgomery@usdoj.gov).

Dated: November 18, 2002.

**James W. Ziglar,**

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 02-30263 Filed 11-27-02; 8:45 am]

**BILLING CODE 4410-10-P**

**DEPARTMENT OF LABOR****Employment and Training Administration**

[NAFTA-6746]

**State of Alaska Commercial Fisheries Entries Commission Permit # 60501X, Egegik, AK; Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries

Entry Commission Permit #60501X, Egegik, Alaska.

The workers stopped fishing on July 20, 1999, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 15th day of November 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30173 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P**

**DEPARTMENT OF LABOR****Employment and Training Administration**

[NAFTA-6825]

**State of Alaska Commercial Fisheries Entries Commission Permit # 5623OM, Levelock, AK; Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #5623OM, Levelock, AL.

The workers stopped fishing in 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 15th day of November 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30174 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P**

**DEPARTMENT OF LABOR****Employment and Training Administration**

[NAFTA-6940]

**State of Alaska Commercial Fisheries Entries Commission Permit # 56217N, New Stuyahok, AK; Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #56217N, New Stuyahok, Alaska.

The workers stopped fishing in 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 15th day of November 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30175 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P**

**DEPARTMENT OF LABOR****Employment and Training Administration**

[NAFTA-6950]

**State of Alaska Commercial Fisheries Entries Commission Permit #61359I, Nondalton, AK; Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the



Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #61359I, Nondalton, Alaska.

The workers stopped fishing in 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 15th day of November 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30176 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-7228]

#### State of Alaska Commercial Fisheries Entries Commission Permit #58934R, Iliamna, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub.L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #58934R, Iliamna, Alaska.

The workers did not fish from 2000 through September 2002, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 13th day of November 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30177 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-7277]

#### State of Alaska Commercial Fisheries Entries Commission Permit #65876R, Levelock, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #65876R, Levelock, AL.

The workers have not fished since July of 1999, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 13th day of November, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30178 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-7382]

#### State of Alaska Commercial Fisheries Entries Commission Permit #60849H, Naknek, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #60849H, Naknek, Alaska.

The workers stopped fishing in 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 13th day of November, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30179 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-7414]

#### State of Alaska Commercial Fisheries Entries Commission Permit #65030C, Nondalton, AK; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #65030C, Nondalton, Alaska.

The workers stopped fishing in 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 15th day of November, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30180 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-6610]

#### State of Alaska Commercial Fisheries Entries Commission Permit #57286F, Dillingham, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter d, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #57286F, Dillingham, Alaska.

The workers stopped fishing in 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of November, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30182 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-6854]

#### State of Alaska Commercial Fisheries Entries Commission Permit #55470W, Manokotak, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #55470W, Monokotak, Alaska.

The workers stopped fishing in July of 2001, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of November, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30183 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-6887]

#### Permit #65007E, Naknek, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf

of Bristol Bay salmon fishermen, Permit #58071B, Naknek, Alaska.

The workers stopped fishing in 2000, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of November, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30184 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-7023]

#### State of Alaska Commercial Fisheries Entries Commission Permit #58071B, Togiak, AK; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #58071B, Togiak, Alaska.

The workers stopped fishing in July of 2001, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of November, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30185 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

**DEPARTMENT OF LABOR****Employment and Training  
Administration****[NAFTA-7151]****Permit #65823B, Dillingham, AK;  
Notice Of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with Section 250(a), subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, Permit #65823B, Dillingham, Alaska.

The workers did not fish after 2000, more than one year from the September 5, 2002, petition date. Section 223(b) (1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 12th day of November, 2002.

**Linda G. Poole,***Certifying Officer, Division of Trade  
Adjustment Assistance.*

[FR Doc. 02-30186 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P****DEPARTMENT OF LABOR****Employment and Training  
Administration****[NAFTA-7226]****State of Alaska Commercial Fisheries  
Entries Commission Permit #64412C,  
Egegik, AK; Notice of Termination of  
Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries

Entry Commission Permit #64412C, Egegik, Alaska.

The workers did not fish from 2000 through September 2002, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of November 2002.

**Linda G. Poole,***Certifying Officer, Division of Trade  
Adjustment Assistance.*

[FR Doc. 02-30187 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P****DEPARTMENT OF LABOR****Employment and Training  
Administration****[NAFTA-6558]****Permit #57331M, Clarks Point, AK;  
Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of Bristol Bay salmon fishermen, permit #57331M, Clarks Point, AL.

The workers did not fish during the relevant period, more than one year from the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 12th day of November, 2002.

**Linda G. Poole,***Certifying Officer, Division of Trade  
Adjustment Assistance.*

[FR Doc. 02-30188 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P****DEPARTMENT OF LABOR****Employment and Training  
Administration****[NAFTA-6851]****State of Alaska Commercial Fisheries  
Entries Commission Permit #55104G,  
Manokotak, AK; Notice of Termination  
of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 5, 2002, in response to a petition filed by the Bristol Bay Native Association on behalf of State of Alaska Commercial Fisheries Entry Commission Permit #55104G, Monokotak, Alaska.

The workers stopped fishing in 2000, more than one year prior to the September 5, 2002, petition date. Section 223(b)(1) of the Trade Act of 1974, as amended, provides that a certification may not apply to a worker whose separation from employment occurred more than one year prior to the date the petition was filed.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 12th day of November 2002.

**Linda G. Poole,***Certifying Officer, Division of Trade  
Adjustment Assistance.*

[FR Doc. 02-30190 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-30-P****DEPARTMENT OF LABOR****Employment and Training  
Administration****[NAFTA-07609]****GE Transportation Systems, Global  
Signaling LLC, Warrensburg, MO;  
Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with section 250(a), subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on October 7, 2002, in response to a petition filed by a company official on behalf of workers at GE

Transportation Systems Global Signaling LLC, Warrensburg, Missouri.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, DC, this 15th day of November, 2002.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30181 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-6185 and NAFTA-6185A]

#### **Pillowtex Corporation, Columbus, Georgia; Pillowtex Corporation, Phenix City Facility Finishing and Weave and Columbus Towel Greige, Phenix City, AL; Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on May 10, 2002, in response to a worker petition filed by a company official on behalf of workers at Pillowtex Corporation, located in twin plants at Columbus, Georgia and Phenix, Alabama. The workers produced bath products, primarily terrycloth bath towels, hand towels, and washcloths.

An investigation revealed that the subject firm's workers are already subject to recently issued negative NAFTA determinations.

Workers at Pillowtex Corporation, Phenix City Finishing and Weave, and Columbus Towel Greige, Phenix City, Alabama, were denied eligibility to apply for NAFTA Transitional Adjustment on July 3, 2002 (NAFTA-6219). Workers in the same worker group were certified eligible for Trade Adjustment assistance on October 31, 2002 (TA-W-41,512).

Workers at Pillowtex Corporation, Fieldcrest Cannon—Eagle & Phenix, Columbus, Georgia, were denied eligibility to apply for NAFTA Transitional Adjustment on August 14, 2001 (NAFTA-4948C). Workers in the same worker group were certified eligible for Trade Adjustment assistance on November 13, 2001 (TA-W-39,416C).

No new information or change in circumstances is evident which would result in a reversal of the Department's previous NAFTA determinations. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 14th day of November 2002.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30172 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-07639]

#### **Trans World Connections, LTD, Lynchburg, VA; Notice of Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on October 23, 2002, in response to a petition filed by a company official on behalf of workers at Trans World Connections, Ltd., Lynchburg, Virginia.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed at Washington, DC, this 13th day of November 2002.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02-30189 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

#### **Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions**

General Wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor

from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailed by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related

Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, and N.W., Room S-3014, Washington, DC 20210.

### Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. VA020054 dated March 1, 2002. See VA020015.

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

### Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

#### Volume I

None

#### Volume II

District of Columbia

DC020001 (Mar. 01, 2002)

DC020003 (Mar. 01, 2002)

Maryland

MD020017 (Mar. 01, 2002)

MD020034 (Mar. 01, 2002)

MD020036 (Mar. 01, 2002)

MD020046 (Mar. 01, 2002)

MD020047 (Mar. 01, 2002)

MD020048 (Mar. 01, 2002)

MD020056 (Mar. 01, 2002)

MD020057 (Mar. 01, 2002)

Pennsylvania

MD020005 (Mar. 01, 2002)

MD020008 (Mar. 01, 2002)

MD020010 (Mar. 01, 2002)

MD020019 (Mar. 01, 2002)

MD020026 (Mar. 01, 2002)

MD020031 (Mar. 01, 2002)

Virginia

VA0200015 (Mar. 01, 2002)

VA020020 (Mar. 01, 2002)

VA020022 (Mar. 01, 2002)

VA020025 (Mar. 01, 2002)

VA020039 (Mar. 01, 2002)

VA020048 (Mar. 01, 2002)

VA020050 (Mar. 01, 2002)

MD020052 (Mar. 01, 2002)

VA020058 (Mar. 01, 2002)

VA020063 (Mar. 01, 2002)

VA020078 (Mar. 01, 2002)

VA020079 (Mar. 01, 2002)

VA020092 (Mar. 01, 2002)

VA020099 (Mar. 01, 2002)

#### Volume III

None

#### Volume IV

Illinois

IL020014 (Mar. 01, 2002)

#### Volume V

None

#### Volume VI

Oregon

OR020017 (Mar. 01, 2002)

#### Volume VII

California

CA020028 (Mar. 01, 2002)

CA020030 (Mar. 01, 2002)

Nevada

NV020005 (Mar. 01, 2002)

NV020009 (Mar. 01, 2002)

### General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at <http://www.access.gpo.gov/davisbacon>. They are also available electronically by subscription to the Davis-Bacon Online Service (<http://davisbacon.fedworld.gov>) of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 21st day of November, 2002.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 02-30057 Filed 11-27-02; 8:45 am]

BILLING CODE 4510-27-M

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. ICR-1218-0200 (2003)]

### Standard on Process Safety Management of Highly Hazardous Chemicals (PSM); Extension of the Office of Management and Budget's Approval of Information-Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for comment.

**SUMMARY:** OSHA request comment concerning its proposed extension of the information-collection requirements specified by its Standard on Process Safety Management of Highly Hazardous Chemicals (PSM) (29 CFR 1910.119). The Clean Air Act Amendments (CAAA) OF 1990 required the Occupational Safety and Health Administration (OSHA) to develop a standard on Process Safety Management of Highly Hazardous Chemicals (PSM) (i.e., "the Standard") containing certain minimum standards to prevent accidental releases of chemicals which could pose a threat to employees. The Standard, rather than setting specific engineering requirements, emphasizes the application of documented management controls. Using the controls, companies address the risk associated with handling or working near highly hazardous chemicals. Compliance with the standard is accomplished, therefore, by requiring the employer to do a number of things

such a developing a written, comprehensive management program which integrates technologies, procedures and management practices, to update operating procedures and safe work practices, to evaluate safety history and policies of contractors, to conduct periodic evaluations, and to document employee training.

**DATES:** Submit written comments on or before January 28, 2003.

**ADDRESSES:** Submit written comments to the Docket Office, Docket No. ICR-1218-0200(2003), OSHA, U.S. Department of Labor, Room N-2625, Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693-1648.

**FOR FURTHER INFORMATION CONTACT:** Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the collections of information collection specified by the Standard on Process Safety Management of Highly Hazardous Chemicals (PSM) is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693-2222, or Todd Owen at (202) 693-2444. For electronic copies of the ICR, contact OSHA on the Internet at <http://www.osha.gov> and select "Information Collection Requests."

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimized, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The collections of information in the standard are necessary for implementation of the requirements of the standard. The information is used by employers to assure that process using highly hazardous chemicals with the potential of a catastrophic release are

operated as safely as possible. The employer must consider all facets of a process, as well as the involvement of employees in that process. Processes are analyzed by employers so that they identify and control problems that could lead to a major release, fire or explosion. The failure of employers to collect the information will significantly impact OSHA's effort to control and reduce injuries and fatalities in workplaces that have the potential for highly hazardous chemical catastrophes.

The Standard specifies several paperwork requirements. The following sections describe the information collection requirements and who will use the information.

(A) *Employee Participation (paragraph (c))*. Paragraph 1910.119(c)(1) requires employers to develop a written plan describing the employee participation required by this paragraph. Paragraph (c)(3) requires that employers must provide employee access to process hazard analyses.

(B) *Process Safety Information (paragraph (d))*. Paragraph (d) requires employers to complete a compilation of written process safety information prior to conducting a process hazard analyses. The compilation of written process safety information, which includes the hazards of chemicals, the technology of the process and the equipment, is to enable the employer and employees involved in operating the process to identify and understand the hazards posed by processes involving highly hazardous chemicals.

(C) *Process Hazard Analysis (paragraph (e)(1))*. Paragraph (c)(1) requires the employer to perform an initial process hazard analysis on processes covered by the standard. The evaluation must be appropriate to the complexity of the process and must identify, evaluate, and control the hazards involved in the process.

(D) *Resolution of Hazards (paragraphs (e)(4) and (e)(5))*. Paragraph (e)(4) requires hazard analyses to be performed by a team with expertise in engineering and process operations and at least one employee and one member knowledgeable in the specific management process. Paragraph (e)(5) requires the employer to establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner; develop a written schedule of when these actions are to be completed; document the resolution; and communicate the actions to affected operating, maintenance and other employees whose work assignments are in the process.

(E) *Updating, Revalidating, and Retaining the Process Hazard Analysis (paragraphs (e)(6) and (e)(7))*. Paragraph (e)(6) requires the employer to update and revalidate the process hazard analyses at least every five years. Paragraph (e)(7) requires the employer to retain process hazard analysis for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e)(5).

(F) *Operating Procedures (paragraph (f)(1))*. This provision requires the employer to develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process.

(G) *Training (Initial, Refresher, and Documentation) (paragraphs (g)(1), (g)(2), and (g)(3))*. Paragraph (g)(1) requires employers to train employees operating dangerous process. Paragraph (g)(2) requires that the employer provide refresher training at least every three years. Paragraph (g)(3) requires the employer to prepare a record that contains the name of employee, the date of training, and the means used to verify that the employee understood the training.

(H) *Contractors (paragraphs (h)(2)(ii), (iv), (vi) and (h)(3)(iii))*. Paragraph (h)(2)(ii), requires employers, when selecting a contractor, to obtain and evaluate information regarding the contract employer's safety performance and programs. Paragraph (h)(2)(iv) requires the employer to periodically evaluate the performance of contract employers in fulfilling their obligations as specified in paragraph (h)(3) of this section. Paragraph (h)(2)(vi) requires the employer to maintain a contract employee injury and illness log related to the contractor's work in process areas. Paragraph (h)(3)(iii) requires the contract employer to document contract employees have been trained to perform covered activities safely.

(I) *Pre-startup Safety Review (paragraph (i))*. Paragraph (i) requires the employer to perform a pre-start-up safety review for new facilities and for modified facilities when the modification is significant enough to require a change in the process safety information.

(J) *Written Procedures, Inspections and Testing (paragraphs (j)(2) and (j)(4))*. Paragraph (j)(2) requires the employer to establish written procedures to maintain the on-going integrity of process equipment. Paragraph (j)(4) requires that employers perform inspections and tests on process equipment and that each inspection and test be documented

(under (j)(4)(iv)). The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

(K) *Hot Work Permit (paragraph (k))*. Paragraph (k) requires the employer to issue a hot work permit for hot work operations conducted on or near a covered process. The permit shall indicate the date(s) authorized for hot work and identify the object on which hot work is to be performed. The permit must be kept on file until completion of the hot work operations.

(L) *Management of Change (paragraph (l))*. Paragraph (l) requires the employer to establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and for changes to facilities that affect a covered process.

(M) *Incident Investigation (paragraph (m))*. Paragraph (m) requires the employer to investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release of highly hazardous chemical in the workplace. An accident investigation is to be initiated as promptly as possible, but not later than 48 hours following the incident. Paragraph (m)(4) requires that the report be prepared at the conclusion of the investigation which includes, at a minimum, the date of the incident; the date the investigation began; a description of the incident; the factors that contributed to the incident; and any recommendations resulting from the investigation. Resolutions and corrective measures are required to be documented. Paragraph (m)(7) requires that incident investigation reports be retained for five years.

(N) *Emergency Planning and Response (paragraph (n))*. Paragraph (n) requires the employer to establish and implement an emergency action plan in accordance with the provisions of 29 CFR 1910.38(a). In addition, the emergency action plan shall include procedures for handling small releases. Employers covered under this standard may also be subject to the hazardous waste and emergency response provisions contained in 29 CFR 1910.120(a), (p), and (q).

(O) *Compliance Audits (paragraph (o))*. Under paragraph (o)(1), employers are required to certify that they have evaluated compliance with the provisions of this section at least every three years to verify that the procedures

and practices developed under the standard are adequate and are being followed. Paragraph (o)(3) requires that a report of the findings of the audit be developed and paragraph (o)(5) requires that the last two reports be retained.

## II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection-of-information requirements specified by the Standard on Process Safety Management of Highly Hazardous Chemicals (PSM) (29 CFR 1910.119). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

*Type of Review:* Extension of a currently-approved information-collection requirement.

*Title:* Process Safety Management of Highly Hazardous Chemicals (29 CFR 1910.119).

*OMB Number:* 1218-0200.

*Affected Public:* Business or other for-profit; Federal government.

*Number of Respondents:* 212,422.

*Frequency of Recordkeeping:* Varies depending upon the collection of information contained in the Standard.

*Average Time per Response:* Varies from five minutes (.08 hour) to generate, maintain and disclose training documentation to 2,454.4 hours to establish and implement a management of change program.

*Total Annual Hours Requested:* 51,298,797.

## IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this

notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 5-2002 (67 FR 65008).

Signed at Washington, DC., on November 25, 2002.

**John L. Henshaw,**

*Assistant Secretary of Labor.*

[FR Doc. 02-30301 Filed 11-27-02; 8:45 am]

**BILLING CODE 4510-26-M**

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Submission to OMB for Review; Comment Request

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** The NCUA is resubmitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

**DATES:** Comments will be accepted until January 28, 2003.

**ADDRESSES:** Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

*Clearance Officer:* Mr. Neil McNamara (703) 518-6447, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428, Fax No. 703-518-6489, E-mail: [mcnamara@ncua.gov](mailto:mcnamara@ncua.gov).

*OMB Reviewer:* Mr. Joseph F. Lackey (202) 395-4741, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION:** Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the: NCUA Clearance Officer, Neil McNamara, (703) 518-6447. It is also available on the following website: <http://www.NCUA.gov>.

**SUPPLEMENTARY INFORMATION:** Proposal for the following collection of information:

*OMB Number:* 3133-0053.

*Form Number:* NCUA 4501.

*Type of Review:* Revision to a currently approved collection.

*Title:* Report of Officials.

*Description:* 12 U.S.C. 1761—This statutory provision requires that a record of the names and addresses of the



executive officers, members of the supervisory committee, credit committee, and loan officers shall be filed with the administration within 10 days of their election/appointment.

*Respondents:* All Federally Insured Credit Unions.

*Estimated No. of Respondents/Record keepers:* 9,900.

*Estimated Burden Hours Per Response:* 1 hour.

*Frequency of Response:* Annually.

*Estimated Total Annual Burden Hours:* 9,900.

*Estimated Total Annual Cost:* \$0.

By the National Credit Union Administration Board on November 21, 2002.

**Becky Baker,**

*Secretary of the Board.*

[FR Doc. 02-30163 Filed 11-27-02; 8:45 am]

BILLING CODE 7535-01-P

## NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

### Institute of Museum and Library Services; Agency Information Collection Activities: Proposed Collection; Comment Requested

**ACTION:** 60-day notice of information collection under review: New Collection: Identification of Education and Training for Pre-/Paraprofessional Library Staff.

The Institute of Museum and Library Services (IMLS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public. Comments are encouraged and will be accepted for "sixty days" until January 28, 2003. If you have any additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mamie Bittner, Director, Office of Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Written comments and suggestions from the public concerning the proposed collection of information should address one or more of the following:

(1) Evaluate whether the proposed collection of information is an appropriate function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* IMLS Survey of Education Opportunities Available for Library Support/Paraprofessional Staff in the U.S.

(3) *The agency form, if any, and the applicable component of the Department sponsoring the collection:* No form number. Institute of Museum and Library Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected public includes all providers of education and training degree programs, certification, and individual courses appropriate for the support/paraprofessional-level worker in all types of libraries (e.g. public; academic, government; "special" in terms of subject or organization, such as not-for-profit association or corporate entity, school). This collection will gather information related to the content of the programs/courses, instructional modes or resources available to both instructors and students; student demographics, demographics concerning instructors; and existing methods for program evaluation. The data will then be used to advise the Institute of Museum and Library Services as to the availability of educational and training programs targeted to this level of library worker throughout the United States and significant gaps in terms of delivery of specific types of course work within regions of the country. Programs incorporating elements identified as contributing to success will be highlighted in a summary report.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 200 respondents will each complete a Web-based survey in 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* An estimate of the total hour

burden to conduct this survey is 75 hours.

If additional information is required, contact: Mamie Bittner, Director of Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or e-mail at [mbittner@imls.gov](mailto:mbittner@imls.gov).

Dated: November 25, 2002.

**Mamie Bittner,**

*Director Public and Legislative Affairs, Institute of Museum and Library Services.*

[FR Doc. 02-30249 Filed 11-27-02; 8:45 am]

BILLING CODE 7036-01-M

## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

**SUMMARY:** The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions".

2. *Current OMB approval number:* 3150-0021.

3. *How often the collection is required:* On occasion. Upon submittal of an application for a construction permit, operating license, operating license renewal, early site review, design certification review, decommissioning or termination review, manufacturing license, materials license, or upon submittal of a petition for rulemaking.

4. *Who is required or asked to report:* Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of 10 CFR parts 30, 32, 33, 34, 35, 36, 39, 40, 50, 52, 54, 60, 61, 70 and 72.

5. *The number of annual respondents:* 18.

6. *The number of hours needed annually to complete the requirement or request:* 78,765 (an average of 4297 hours per response).



7. *Abstract:* 10 CFR part 51 of the NRC's regulations specifies information and data to be provided by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public law of the United States, which are to be interpreted and administered in accordance with the policies set forth in the National Environmental Policy Act of 1969, as amended. Submit, by January 28, 2003, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T-6 E6, Washington, DC 20555-0001, by telephone at 301-415-7233, or by Internet electronic mail at [infocollects@nrc.gov](mailto:infocollects@nrc.gov).

Dated at Rockville, Maryland, this 22nd day of November 2002.

For the Nuclear Regulatory Commission,  
**Beth St. Mary,**  
*Acting Clearance Officer, Office of the Chief Information Officer.*  
 [FR Doc. 02-30266 Filed 11-27-02; 8:45 am]  
**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-344]

### Portland General Electric Co., et al., Trojan Nuclear Plant, Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing; Correction

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance; Correction.

**SUMMARY:** This document corrects a notice appearing in the *Federal Register* on November 12, 2002 (67 FR 68748), regarding issuance of an amendment to Facility Operating License No. NPR-1, issued to Portland General Electric Company, et al. This action is necessary to correct omission of the Amendment Number.

**FOR FURTHER INFORMATION CONTACT:** John Minns, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3166, e-mail: [jlm3@nrc.gov](mailto:jlm3@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On page 68748, in the third column, after the paragraph beginning with Effective Date, a separate paragraph should read: "Amendment No.: 208."

Dated in Rockville, Maryland, this 22nd day of November, 2002.

For the U.S. Nuclear Regulatory Commission.

**John L. Minns,**  
*Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 02-30267 Filed 11-27-02; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-25831]

### Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

November 22, 2002.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of November, 2002. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW., Washington, DC 20549-0102 (tel. 202-942-8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons

may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 17, 2002, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609. For Further Information Contact: Diane L. Titus at (202) 942-0564, SEC, Division of Investment Management, Office of Investment Company Regulation, 450 Fifth Street, NW, Washington, DC 20549-0506.

### Mercury Mid Cap Growth Fund, Inc. [File No. 811-10129]

*Summary:* Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. By February 11, 2002, all of applicant's shareholders had redeemed their shares at net asset value. Expenses of \$13,000 incurred in connection with the liquidation were paid by applicant.

*Filing Dates:* The application was filed on September 17, 2002, and amended on October 25, 2002, and November 19, 2002.

*Applicant's Address:* Fund Asset Management, L.P., 800 Scudders Mill Rd., Plainsboro, NJ 08536.

### Mercury Premier Growth Fund, Inc. [File No. 811-9823]

*Summary:* Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On October 29, 2001, applicant's sole shareholder, Fund Asset Management, L.P., redeemed its shares at net asset value. Expenses of \$14,500 incurred in connection with the liquidation were paid by applicant.

*Filing Dates:* The application was filed on September 17, 2002, and amended on October 25, 2002, and November 19, 2002.

*Applicant's Address:* Fund Asset Management, L.P., 800 Scudders Mill Rd., Plainsboro, NJ

### Mercury Focus Twenty Fund, Inc. [File No. 811-9825]

*Summary:* Applicant, a feeder fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On March 25,

2002, applicant's sole shareholder, Fund Asset Management, L.P., redeemed its shares at net asset value. Expenses of approximately \$11,491 incurred in connection with the liquidation were paid by applicant.

*Filing Dates:* The application was filed on March 28, 2002, and amended on October 30, 2002, and November 29, 2002.

*Applicant's Address:* Mercury Advisors, 800 Scudders Mill Rd., Plainsboro, NJ 08536.

**Prudential High Yield Total Return Fund, Inc. [File No. 811-8101]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On March 20, 2002, applicant transferred its assets to Prudential High Yield Fund, Inc., based on net asset value. Expenses of \$129,179 incurred in connection with the reorganization were paid pro rata by applicant and the acquiring fund.

*Filing Dates:* The application was filed on August 19, 2002, and amended on November 14, 2002.

*Applicant's Address:* Gateway Center Three, 100 Mulberry St., Newark, NJ 07102.

**Prudential Mortgage Income Fund, Inc. [File No. 811-3397]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On January 22, 1999, applicant transferred its assets to Prudential Government Income Fund Inc., based on net asset value. Expenses of \$152,000 incurred in connection with the reorganization were paid pro rata by applicant and the acquiring fund.

*Filing Dates:* The application was filed on August 19, 2002, and amended on November 14, 2002.

*Applicant's Address:* Gateway Center Three, 100 Mulberry St., Newark, NJ 07102.

**Managed Municipals Portfolio II Inc. [File No. 811-7046]**

*Summary:* Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On April 29, 2002, applicant transferred its assets to Managed Municipals Portfolio Inc., based on net asset value. Expenses of \$131,000 incurred in connection with the reorganization were paid by applicant and the acquiring fund.

*Filing Date:* The application was filed on October 28, 2002.

*Applicant's Address:* 125 Broad St., New York, NY 10004.

**SSBCiti Funds Inc. [File No. 811-9513]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an

investment company. On October 1, 2002, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of \$39,646 incurred in connection with the liquidation were paid by applicant's investment adviser, Salomon Brothers Asset Management Inc.

*Filing Date:* The application was filed on October 11, 2002.

*Applicant's Address:* 125 Broad St., New York, NY 10004.

**Century Shares Trust [File No. 811-19]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On July 31, 2001, applicant transferred its assets to Century Capital Management Trust, based on net asset value. Expenses of \$114,207 incurred in connection with the reorganization were paid by applicant and Century Capital Management, Inc., applicant's investment adviser.

*Filing Date:* The application was filed on October 11, 2002.

*Applicant's Address:* Steven Alfano, c/o Century Capital Management, Inc., One Liberty Sq., Boston, MA 02109.

**Nations Fund Trust [File No. 811-4305]; Nations Fund, Inc. [File No. 811-4614]; The Capitol Mutual Funds d/b/a Nations Reserves [File No. 811-6030]**

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. On May 10, 2002, and May 17, 2002, each applicant transferred its assets to corresponding series of Nations Funds Trust, based on net asset value. Expenses of \$2,018,171, \$296,867 and \$1,763,782, respectively, incurred in connection with the reorganizations were paid by each applicant and Banc of America Advisors, LLC, applicants' investment adviser.

*Filing Date:* The applications were filed on October 18, 2002.

*Applicants' Address:* 111 Center St., Suite 300, Little Rock, AR 72201.

**Bailard, Biehl & Kaiser Fund Group [File No. 811-4828]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On September 26, 2002, applicant made a liquidating distribution to its shareholders based on net asset value. Applicant has retained \$52,073 to cover accrued but unpaid liabilities. Bailard, Biehl & Kaiser, Inc., applicant's investment adviser, paid all expenses incurred in connection with the liquidation.

*Filing Date:* The application was filed on October 9, 2002.

*Applicant's Address:* 950 Tower Ln., Suite 1900, Foster City, CA 94404.

**Georgia Daily Municipal Income Fund, Inc. [File No. 811-8425]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On August 8, 2002, applicant made a liquidating distribution to its sole shareholder, based on net asset value. Expenses of \$4,000 incurred in connection with the liquidation were paid by Reich & Tang Asset Management, LLC, applicant's investment adviser.

*Filing Date:* The application was filed on October 11, 2002.

*Applicant's Address:* 600 Fifth Ave., New York, NY 10020.

**LaSalle Master Trust [File No. 811-8597]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 10, 2002, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of \$15,000 incurred in connection with the liquidation were paid by LaSalle Investment Management (Securities), L.P., applicant's investment adviser.

*Filing Date:* The application was filed on November 1, 2002.

*Applicant's Address:* 100 East Pratt Street, Baltimore, MD 21202.

**Merrill Lynch KECALP L.P. 1987 [File No. 811-4979]; Merrill Lynch KECALP L.P. 1989 [File No. 811-5714]**

*Summary:* Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On May 31, 2000, each applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of \$60,254 and \$58,458, respectively, incurred in connection with the liquidations were paid by each applicant and KECALP Inc., investment adviser to the applicants.

*Filing Date:* The applications were filed on November 5, 2002.

*Applicants' Address:* 4 World Financial Center, 23rd Floor, New York, NY 10080.

**Franklin Asset Allocation Fund [File No. 811-730]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On February 8, 2001, each class of applicant transferred its assets to a corresponding class of Franklin Growth and Income Fund, based on net asset value. Expenses of \$35,010 incurred in connection with the reorganization were paid by applicant,

the acquiring fund and Franklin Advisers, Inc., investment adviser to applicant and the acquiring fund.

*Filing Dates:* The application was filed on August 22, 2002, and amended on October 29, 2002.

*Applicant's Address:* One Franklin Parkway, San Mateo, CA 94403-1906.

**North Carolina Daily Municipal Income Fund, Inc. [File No. 811-6344]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On July 9, 2002, applicant made a liquidating distribution to its sole shareholder based on net asset value. Expenses of \$4,000 incurred in connection with the liquidation were paid by Reich & Tang Asset Management, LLC, applicant's investment adviser.

*Filing Date:* The application was filed on October 9, 2002.

*Applicant's Address:* 600 Fifth Ave., New York, NY 10020.

**Alliance International Fund [File No. 811-3130]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On August 23, 2002, applicant transferred its assets to AllianceBernstein International Value Fund of AllianceBernstein Trust, based on net asset value. Expenses of \$324,020 incurred in connection with the reorganization were paid by applicant and Alliance Capital Management, L.P., applicant's investment adviser.

*Filing Date:* The application was filed on October 9, 2002.

*Applicant's Address:* 1345 Avenue of the Americas, New York, NY 10105.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-30195 Filed 11-27-02; 8:45 am]

BILLING CODE 8010-01-P

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-46883; File No. SR-Amex-2002-88]**

**Self-Regulatory Organizations; the American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Listing and Trading of Notes Linked to the Performance of the Dow Jones Industrial Average ("DJIA")**

November 21, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,

("Act")<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 1, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is approving the proposal on an accelerated basis.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to list and trade under section 107A of the Amex Company Guide ("Company Guide"), notes linked to the performance of the Dow Jones Industrial Average (the "DJIA" or the "Market Recovery Notes" or "Notes").

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**

**1. Purpose**

Under section 107A of the Amex Company Guide ("Company Guide"), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.<sup>3</sup> The Exchange proposes to list for trading under section 107A of the Company Guide notes, the performance which is linked to the DJIA (the "Market Recovery Notes" or "Notes").<sup>4</sup> The DJIA

is determined, calculated and maintained solely by Dow Jones.<sup>5</sup> The Notes will provide for a multiplier of any positive performance of the DJIA during such term subject to a maximum payment amount or ceiling.

The Notes will initially conform to the listing guidelines under section 107A<sup>6</sup> and continued listing guidelines under sections 1001-1003<sup>7</sup> of the Company Guide. The Notes are senior non-convertible debt securities of Merrill Lynch. The Notes will have a term of not less than one, nor more, than

affiliates and subsidiaries in connection with certain securities including these Notes. Dow Jones is not responsible and will not participate in the issuance and creation of the Notes.

<sup>5</sup> The DJIA is a price-weighted index comprised of 30 common stocks chosen by the editors of the Wall Street Journal ("WSJ") as representative of the broad market of U.S. industry. A price-weighted index refers to an index that assigns weights to component stocks based on the price per share rather than total market capitalization of such component stock. The corporations represented in the DJIA tend to be leaders within their respective industries and their stocks are typically widely held by individuals and institutional investors. Changes in the composition of the DJIA are made solely by the editors of the WSJ. In addition, changes to the common stocks included in the DJIA tend to be made infrequently with most substitutions the result of mergers and other extraordinary corporate actions. However, over time, changes are made to more accurately represent the broad market of U.S. industry. In choosing a new corporation for the DJIA, the editors of the WSJ focus on the leading industrial companies with a successful history of growth and wide interest among investors. Dow Jones, publisher of the WSJ, is not affiliated with Merrill Lynch and has not participated in any way in the creation of the Notes. The number of common stocks in the DJIA has remained at 30 since 1928, and, in an effort to maintain continuity, the constituent corporations represented in the DJIA have been changed on a relatively infrequent basis.

<sup>6</sup> The initial listing standards for the Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least \$4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of \$100 million, stockholder's equity of at least \$10 million, and pre-tax income of at least \$750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of \$200 million and stockholders' equity of at least \$10 million; or (2) assets in excess of \$100 million and stockholders' equity of at least \$20 million.

<sup>7</sup> The Exchange's continued listing guidelines are set forth in sections 1001 through 1003 of part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Notes, the Exchange will rely in part, on the guidelines for bonds in section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than \$400,000.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR-Amex-89-29).

<sup>4</sup> Merrill Lynch & Co., Inc. ("Merrill Lynch") and Dow Jones & Co., Inc. ("Dow Jones") have entered into a non-exclusive license agreement providing for the use of the DJIA by Merrill Lynch and certain

10 years. Merrill Lynch will issue the Notes in denominations of whole units (a "Unit"), with each Unit representing a single Note. The original public offering price will be \$10 per Unit. The Notes will entitle the owner at maturity to receive an amount based upon the percentage change of the DJIA. At maturity, if the value of the DJIA has increased over the term of the Notes, a beneficial owner will be entitled to receive a payment on the Notes equal to three times the amount of that

percentage increase, not to exceed a maximum payment (the "Capped Value") to be determined at the time of issuance of the Notes. The Notes will not have a minimum principal amount that will be repaid, and accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. The Notes are also not callable by the Issuer.

The payment that a holder or investor of a Note will be entitled to receive (the "Redemption Amount") depends

entirely on the relation of the average of the values of the DJIA at the close of the market on five business days shortly before the maturity of the Notes (the "Ending Value") and the closing value of the DJIA on the date the Notes are priced for initial sale to the public (the "Starting Value").

If the Ending Value is greater than the Starting Value, the Redemption Amount per Unit will equal:

$$\$10 + \left( \$30 \times \left( \frac{\text{Ending Value} - \text{Starting Value}}{\text{Starting Value}} \right) \right) \text{ not to exceed the Capped}$$

If the Ending Value is less than or equal to the Starting Value, the Redemption Amount per Unit will equal:

$$\$10 \times \left( \frac{\text{Ending Value}}{\text{Starting Value}} \right)$$

The Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security, dividend payments or any other ownership right or interest in the portfolio or index of securities comprising the DJIA. The Notes are designed for investors who want to participate or gain exposure to the DJIA, subject to a cap, and who are willing to forego market interest payments on the Notes during such term. The SEC has previously approved the listing of options on, and securities the performance of which have been linked to or based on, the DJIA.<sup>8</sup>

As of October 29, 2002, the market capitalization of the securities included in the DJIA ranged from a high of \$279.3 billion to a low of \$10 billion. The average daily trading volume for these same securities for the last six months, as of the same date, ranged from a high of 57.3 million shares to a low of 2 million shares.

Because the Notes are linked to a portfolio of equity securities, the Amex's existing equity floor trading rules will apply to the trading of the Notes. First, pursuant to Amex rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the

Notes.<sup>9</sup> Second, the Notes will be subject to the equity margin rules of the Exchange.<sup>10</sup> Third, the Exchange will, prior to trading the Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction. In addition, Merrill Lynch will deliver a prospectus in connection with the initial sales of the Notes.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, the Exchange will rely on its existing surveillance procedures governing equities, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy, which prohibits the distribution of material, non-public information by its employees.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>11</sup> in general, and

further the objectives of section 6(b)(5),<sup>12</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange did not receive any written comments on the proposed rule change.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at

<sup>8</sup> See Securities Exchange Act Release Nos. 39011 (September 3, 1997), 62 FR 47840 (September 11, 1997) (approving the listing and trading of options on the DJIA); 39525 (January 8, 1998), 63 FR 2438 (January 15, 1998) (approving the listing and trading of DIAMONDS<sup>SM</sup> Trust Units, portfolio depositary receipts based on the DJIA).

<sup>9</sup> Amex rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

<sup>10</sup> See Amex rule 462 and section 107B of the Company Guide.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR-Amex-2002 88 and should be submitted by December 20, 2002.

#### IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5) of the Act.<sup>13</sup> The Commission finds that this proposal is similar to several approved instruments currently listed and traded on the Amex.<sup>14</sup> Accordingly, the Commission finds that the listing and trading of the Notes based on the DJIA is consistent with the Act and will promote just and equity principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, protect investors and the public interest consistent with section 6(b)(5) of the Act.<sup>15</sup>

As described more fully above, at maturity, the holder of a Note will receive an amount based upon the percentage change of the DJIA. Specifically, at maturity, the holder of a Note will be entitled to receive a payment equal to three times the

amount of that percentage increase, not to exceed a certain maximum payment, if the value of the DJIA has increased over the term of such Note. The Notes will provide investors who are willing to forego market interest payments during the term of the Notes with a means to participate or gain exposure to the DJIA, subject to a cap.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the Notes. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes that the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of the Notes. Moreover, the Commission notes that the Exchange will distribute a circular to its membership calling attention to the specific risks associated with the Notes. The Commission also notes that Merrill Lynch will deliver a prospectus in connection with the initial sales of the Notes. In addition, the Commission notes that Amex will incorporate and rely upon its existing surveillance procedures governing equities, which have been deemed adequate under the Act. Moreover, the Commission also notes that the Exchange has a general policy that prohibits the distribution of material, non-public information by its employees.

In approving the product, the Commission recognizes that the DJIA is a price-weighted index comprised of 30 component common stocks, representing a broad market of the U.S. industry, with each stock affecting the DJIA in proportion to its market price. The Commission notes that the changes in the composition of the DJIA are made solely by the editors of the WSJ. The changes to these common stocks tend to be made infrequently with most substitutions the result of mergers and other extraordinary corporate actions. Further, the Commission notes that the DJIA has remained at 30 since 1928. As of October 29, 2002, the 30 stocks in the DJIA ranged in capitalization from a high of \$279.3 billion to a low of \$10 billion. In addition, the average daily trading volume for the component stocks over the six-month period from May 2002 to October 2002 ranged from a high of 57.3 million shares to a low of 2 million shares. Given the compositions of the stocks underlying the DJIA, the Commission believes that the listing and trading of the Notes that are linked to the DJIA, should not unduly impact the market for the underlying securities comprising the

DJIA or raise manipulative concerns. As discussed more fully above, the underlying stocks comprising the DJIA are well-capitalized, highly liquid stocks. Moreover, the issuers of the underlying securities comprising the DJIA, are subject to reporting requirements under the Act, and all of the component stocks are either listed or traded on, or traded through the facilities of, U.S. securities markets. Additionally, the Amex's surveillance procedures will serve to deter as well as detect any potential manipulation.

Furthermore, the Commission notes that the Notes are depending upon the individual credit of the issuer, Merrill Lynch. To some extent this credit risk is minimized by the Exchange's listing standards in section 107A of the Company Guide which provide the only issuers satisfying substantial asset and equity requirements may issue securities such as the Notes. In addition, the Exchange's "Other Securities" listing standards further require that the Notes have a market value of at least \$4 million.<sup>16</sup> In any event, financial information regarding Merrill Lynch, in addition to the information on the 30 common stocks comprising the DJIA, will be publicly available.<sup>17</sup>

The Commission also has a systemic concern, however, that a broker-dealer such as Merrill Lynch, or a subsidiary providing a hedge for the issuer will incur position exposure. However, as the Commission has concluded in previous approval orders for other hybrid instruments issued by broker-dealers,<sup>18</sup> the Commission believes that this concern is minimal given the size of the Notes issuance in relation to the net worth of Merrill Lynch.

Finally, the Commission notes that the value of the DJIA will be disseminated at least once every 15 seconds throughout the trading day. The Commission believes that providing access to the value of the DJIA at least once every 15 seconds throughout the

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> See Securities Exchange Act Release Nos. 46021 (June 3, 2002), 67 FR 39753 (June 10, 2002) (approving the listing and trading of non-principal protected exchangeable notes linked to the Select European 50 Index); 45639 (March 25, 2002), 67 FR 15258 (March 29, 2002) (approving the listing and trading of non-principal protected exchangeable notes linked to the Oil and Natural Gas Index); 45305 (January 17, 2002), 67 FR 3753 (January 25, 2002) (approving the listing and trading of non-principal protected exchangeable notes linked to the Biotech-Pharmaceutical Index); 45160 (December 17, 2001), 66 FR 66485 (December 26, 2001) (approving the listing and trading of non-principal protected exchangeable notes linked to the Balanced Strategy Index); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (approving the listing and trading of non-principal protected exchangeable notes linked to the Institutional Holdings Index); 44437 (June 18, 2001), 66 FR 33585 (June 22, 2001) (approving the listing and trading of non-principal protected exchangeable notes linked to the Industrial 15 Index); and 44342 (May 23, 2001), 66 FR 29613 (May 31, 2001) (approving the listing and trading of non-principal protected exchangeable notes linked to the Select Ten Index).

<sup>15</sup> 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>16</sup> See Company Guide section 107A.

<sup>17</sup> The SEC notes that the 30 component stocks that comprise the DJIA are reporting companies under the Act, and the Notes will be registered under section 12 of the Act.

<sup>18</sup> See, e.g., Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (File No. SR-NASD-2001-73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR-Amex-2001-40); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (File No. SR-Amex-96-27).

trading day is extremely important and will provide benefits to investors in the product.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex.<sup>19</sup> The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Additionally, the Notes will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes that there is good cause, consistent with sections 6(b)(5) and 19(b)(2) of the Act<sup>20</sup> to approve the proposal on an accelerated basis.

## V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>21</sup> that the proposed rule change (SR-Amex-2002-88), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>22</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 02-30198 Filed 11-27-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46882; File No. SR-Amex-2002-76]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Notes Based on the Select Fifty Index

November 21, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 20, 2002, the American Stock Exchange LLC ("Amex" or "Exchange")

filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to approve for listing and trading notes, the return on which is based upon the performance of an equal-dollar weighted portfolio of securities representing the fifty stocks with the largest market capitalization in the S&P 500 Composite Stock Price Index (the "S&P 500 Index" or "Underlying Index"), as reduced by an adjustment factor as described below (the "Select Fifty Index" or "Index").<sup>3</sup>

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

<sup>3</sup> As of September 3, 2002 the portfolio of securities comprising the Select Fifty Index consists of: Abbott Laboratories; American Express Company; American International Group, Inc.; Amgen Inc.; Anheuser-Busch Companies, Inc.; AOL Time Warner Inc.; AT&T Corp.; Bank of America Corporation; Bank One Corporation; Bellsouth Corporation; Bristol-Myers Squibb Company; ChevronTexaco Corporation; Cisco Systems, Inc.; Citigroup Inc.; The Coca-Cola Company; Dell Computer Corporation; E.I. du Pont de Nemours and Company; Eli Lilly and Company; Exxon Mobil Corporation; Federal Home Loan Mortgage Corporation; Federal National Mortgage Association; Fifth Third Bancorp; General Electric Company; The Goldman Sachs Group, Inc.; Hewlett-Packard Company; The Home Depot, Inc.; International Business Machines Corporation; Intel Corporation; J.P. Morgan Chase & Co.; Johnson & Johnson; Medtronic, Inc.; Merck & Co., Inc.; Microsoft Corporation; Minnesota Mining and Manufacturing Company; Morgan Stanley, Dean Witter, Discover & Co.; Oracle Corporation; PepsiCo, Inc.; Pfizer Inc.; Pharmacia Corporation; Philip Morris Companies Inc.; The Procter & Gamble Company; SBC Communications Inc.; Texas Instruments Incorporated; U.S. Bancorp; Verizon Communications Inc.; Viacom Inc.; Wachovia Corporation; Wal-Mart Stores, Inc.; Wells Fargo & Company; and Wyeth.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

Under Section 107A of the Amex Company Guide ("Company Guide"), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.<sup>4</sup> The Amex proposes to list for trading under Section 107A of the Company Guide notes based on the Select Fifty Index. The Select Fifty Index will be determined, calculated and maintained solely by the Amex.<sup>5</sup>

The Notes will initially conform to the listing guidelines under Section 107A<sup>6</sup> and continued listing guidelines under Sections 1001-1003<sup>7</sup> of the Company Guide. The Notes are senior non-convertible debt securities of Merrill Lynch & Co., Inc. ("Merrill Lynch"). The Notes will have a term of not less than one, nor more than ten years. The Notes will entitle the owner at maturity to receive an amount based upon the percentage change between the "Starting Index Value" and the "Ending Index Value" (the "Redemption

<sup>4</sup> See Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR-Amex-89-29).

<sup>5</sup> Subject to the criteria in the prospectus regarding the construction of the Index, the Exchange has sole discretion regarding changes to the Index due to annual reconstitutions and adjustments to the Index and the multipliers of the individual components.

<sup>6</sup> The initial listing standards for the Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least \$4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of \$100 million, stockholder's equity of at least \$10 million, and pre-tax income of at least \$750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of \$200 million and stockholders' equity of at least \$10 million; or (2) assets in excess of \$100 million and stockholders' equity of at least \$20 million.

<sup>7</sup> The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Notes, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than \$400,000.

<sup>19</sup> See *supra* note 14.

<sup>20</sup> 15 U.S.C. 78f(b)(5) and 78s(b)(2).

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Amount"). The "Starting Index Value" is the value of the Select Fifty Index on the date the issuer prices the Notes for the initial sale to the public. The "Ending Index Value" is the value of the Select Fifty Index over a period shortly prior to the expiration of the Notes. The Ending Index Value will be used in calculating the amount owners will receive upon maturity. The Notes will not have a minimum principal amount that will be repaid and, accordingly, payments on the Notes prior to or at maturity may be less than the original issue price of the Notes. During an approximately two-week period in the designated month each year, the investors will have the right to require the issuer to repurchase the Notes at a redemption amount based on the value of the Select Fifty Index at such repurchase date. The Notes are not callable by the issuer.

The Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security or any other ownership right or interest in the portfolio of securities comprising the Select Fifty Index. The Notes are designed for investors who want to participate or gain exposure to a broad section of large capitalization companies and who are willing to forego market interest payments on the Notes during such term.

The Select Fifty Index will consist of a portfolio of stocks (excluding Merrill Lynch and its affiliates) of the fifty companies with the largest market capitalization in the S&P 500 Index<sup>8</sup> at the time of initial composition or any reconstitution of the Select Fifty Index. The Securities and Exchange Commission ("Commission" or "SEC") has previously approved the listing of options on, and securities the performance of which have been linked to or based on, the S&P 500 Index.<sup>9</sup> In

addition, the Commission in 1994 granted approval to the listing and trading of options on an index comprised of the fifty largest U.S. stocks as measured by market capitalization.<sup>10</sup>

Components of the Select Fifty Index approved pursuant to this filing will also meet the following criteria: (1) A minimum market value of at least \$75 million, except that up to 10% of the component securities in the Select Fifty Index may have a minimum market value of \$50 million; (2) average monthly trading volume in the last six months of not less than 1,000,000 shares, except that up to 10% of the component securities in the Select Fifty Index may have an average monthly trading volume of 500,000 shares or more in the last six months; (3) 90% of the Select Fifty Index's numerical value and at least 80% of the total number of component securities will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; and (4) all component stocks will either be listed on the Amex, the New York Stock Exchange, Inc. ("NYSE") or traded through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ") and reported National Market System securities.

If calculated as of September 16, 2002, the market capitalization of the securities that would represent the Select Fifty Index would range from a high of \$269.1 billion to a low of \$35.2 billion. The average monthly trading volume of those same securities for the last six months, as of the same date, ranged from a high of 463.5 million shares to a low of 87.9 million shares. Moreover, as of September 16, 2002, all of the securities that would comprise the Select Fifty Index were eligible for standardized options trading pursuant to Amex Rule 915.

At the outset, each of the securities in the Select Fifty Index will represent approximately an equal percentage of the Starting Index Value. Specifically, each security included in the portfolio will be assigned a multiplier on the date of issuance so that the security represents approximately an equal

percentage of the value of the entire portfolio underlying the Select Fifty Index on the date the Notes are priced for initial sale to the public. The multiplier indicates the number of shares (or fraction of one share) of a security, given its market price on an exchange or through NASDAQ, to be included in the calculation of the portfolio. Accordingly, initially each of the fifty companies included in the Select Fifty Index will represent approximately 2.00% of the total portfolio at the time of issuance. The Select Fifty Index will initially be set to provide a benchmark value of 100.00 at the close of trading on the day the Notes are priced for initial sale to the public.

The value of the Select Fifty Index at any time will equal: (1) The sum of the products of the current market price for each stock underlying the Select Fifty Index and the applicable share multiplier, plus (2) an amount reflecting current calendar quarter dividends, and less (3) a pro rata portion of the annual index adjustment factor.<sup>11</sup> Current quarter dividends for any day will be determined by the Amex and will equal the sum of each dividend paid by the issuer on one share of stock underlying the Select Fifty Index during the current calendar quarter multiplied by the share multiplier applicable to such stock on the ex-dividend date.

As of the first day of the start of each calendar quarter, the Amex will allocate the current quarter dividends as of the end of the immediately preceding calendar quarter to each then outstanding component of the Select Fifty Index. The amount of the current quarter dividends allocated to each stock will equal the percentage of the value of such stock contained in the portfolio of securities comprising the Select Fifty Index relative to the value of the entire portfolio based on the closing market price of such stock on the last day in the immediately preceding calendar quarter. The share multiplier of each stock will be increased to reflect the number of shares, or portion of a share, that the amount of the current quarter dividend allocated to each stock can purchase of each stock based on the closing market price on the last day in the immediately preceding calendar quarter.

<sup>11</sup> At the end of each day, the Select Fifty Index will be reduced by a pro rata portion of the annual index adjustment factor, expected to be 1.5% (i.e., 1.5%/365 days = 0.0041% daily). This reduction to the value of the Select Fifty Index will reduce the total return to investors upon exchange or at maturity. The Amex represents that an explanation of this deduction will be included in any marketing materials, fact sheets, or any other materials circulated to investors regarding the trading of this product.

<sup>8</sup> The S&P 500 Index is a broad-based stock index which provides an indication of the performance of the U.S. equity market. The S&P 500 Index is a capitalization-weighted index reflecting the total market value of 500 widely-held component stocks relative to a particular base period. The Index is computed by dividing the total market value of the 500 stocks by an Index divisor. The Index Divisor keeps the Index comparable over time to its base period of 1941-1943 and is the reference point for all maintenance adjustments. The securities included in the Index are listed on the Amex, New York Stock Exchange, Inc. ("NYSE") or traded through NASDAQ. The Index reflects the price of the common stocks of 500 companies without taking into account the value of the dividend paid on such stocks.

<sup>9</sup> See Securities Exchange Act Release Nos. 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (approving the listing and trading of options on the S&P 500 Index); 31591 (December 18, 1992), 57 FR 60253 (December 18, 1992) (approving the listing and trading of Portfolio Depositary Receipts based on the S&P 500 Index); 27382 (October 26, 1989),

54 FR 45834 (October 31, 1989) (approving the listing and trading of Exchange Stock Portfolios based on the value of the S&P 500 Index); 30394 (February 21, 1992), 57 FR 7409 (March 2, 1992) (approving the listing and trading of a unit investment trust linked to the S&P 500 Index)(SPDR); and 45160 (December 17, 2001) 66 FR 66485 (December 26, 2001) (approving the listing and trading of notes based on the Balanced Strategy Index).

<sup>10</sup> See Securities Exchange Act Release No. 33973 (April 28, 1994), 59 FR 23245 (May 5, 1994) (approving the listing and trading of options on the Big Cap Index).



As of the close of business on each anniversary date (anniversary of the day the Notes are priced for initial sale to the public) through the applicable anniversary date in the year preceding the maturity of the Notes, the portfolio of securities comprising the Select Fifty Index will be reconstituted by the Amex so as to include the fifty stocks (excluding Merrill Lynch and its affiliates) having the largest market capitalization in the S&P 500 Index on the second scheduled index business day prior to such anniversary date. The Exchange will announce such changes to investors at least one day prior to the anniversary date.<sup>12</sup>

The portfolio will be reconstituted and rebalanced on the anniversary date so that each stock in the Select Fifty Index will represent approximately 2.00% of the value of the Select Fifty Index. To effectuate this, the share multiplier for each new stock will be determined by the Amex and will indicate the number of shares or fractional portion thereof of each new stock, given the closing market price of such new stock on the anniversary date, so that each new stock represents an equal percentage of the Select Fifty Index value at the close of business on such anniversary date. For example, if the Select Fifty Index value at the close of business on an anniversary date was 150, then each of the fifty new stocks comprising the Select Fifty Index would be allocated a portion of the value of the Select Fifty Index equal to 3, and if the closing market price of one such new stock on the anniversary date was 20, the applicable share multiplier would be 0.15. Conversely, if the Select Fifty Index value was 50, then each of the fifteen new stocks comprising the Select Fifty Index would be allocated a portion of the value of the Select Fifty Index equal to 1 and if the closing market price of one such new stock on the anniversary date was 20, the applicable share multiplier would be 0.05. The last anniversary date on which such reconstitution will occur will be the anniversary date in the year preceding the maturity of the Notes. As noted above, investors will receive information on the new portfolio of securities comprising the Select Fifty Index at least one day prior to each anniversary date.

The multiplier of each component stock in the Select Fifty Index will remain fixed until adjusted for quarterly dividend adjustments, annual

restitutions or certain corporate events, such as payment of a dividend other than an ordinary cash dividend, a distribution of stock of another issuer to its shareholders,<sup>13</sup> stock split, reverse stock split, and reorganization.

The multiplier of each component stock may be adjusted, if necessary, in the event of a merger, consolidation, dissolution or liquidation of an issuer or in certain other events such as the distribution of property by an issuer to shareholders. If the issuer of a stock included in the Select Fifty Index were to no longer exist, whether by reason of a merger, acquisition or similar type of corporate transaction, a value equal to the stock's final value will be assigned to the stock for the purpose of calculating the Select Fifty Index value prior to the subsequent anniversary date. For example, if a company included in the Select Fifty Index were acquired by another company, a value will be assigned to the company's stock equal to the value per share at the time the acquisition occurred. If the issuer of stock included in the Select Fifty Index is in the process of liquidation or subject to a bankruptcy proceeding, insolvency, or other similar adjudication, such security will continue to be included in the Select Fifty Index so long as a market price for such security is available or until the subsequent anniversary date. If a market price is no longer available for a Select Fifty Index stock due to circumstances including but not limited to, liquidation, bankruptcy, insolvency, or any other similar proceeding, then the security will be assigned a value of zero when calculating the Select Fifty Index for so long as no market price exists for that security or until the subsequent anniversary date. If the stock remains in the Select Fifty Index, the multiplier of that security may be adjusted to maintain the component's relative weight in the Select Fifty Index at the level immediately prior to the corporate action. In all cases, the multiplier will be adjusted, if necessary, to ensure Select Fifty Index continuity.

The Exchange will calculate the Select Fifty Index and, similar to other stock index values published by the Exchange, the value of the Select Fifty Index will be calculated continuously and disseminated every fifteen seconds

over the Consolidated Tape Association's Network B.

Because the Notes are linked to a portfolio of equity securities, the Amex's existing equity floor trading rules will apply to the trading of the Notes. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.<sup>14</sup> Second, the Notes will be subject to the equity margin rules of the Exchange.<sup>15</sup> Third, the Exchange will, prior to trading the Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction. In addition, Merrill Lynch will deliver a prospectus in connection with the initial purchase of the Notes.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, the Amex will rely on its existing surveillance procedures governing equities, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy that prohibits the distribution of material, non-public information by its employees.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,<sup>16</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>17</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in

<sup>12</sup> The Exchange will publish a notice to advise investors of changes to the securities underlying the Index if any such changes are made following an annual reconstitution.

<sup>13</sup> If the issuer of a component security in the Select Fifty Index issues to all of its shareholders publicly traded stock of another issuer, such new securities will be added to the portfolio comprising the Select Fifty Index until the subsequent anniversary date. The multiplier for the new component will equal the product of the original issuer's multiplier and the number of shares of the new component issued with respect to one share of the original issuer.

<sup>14</sup> Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

<sup>15</sup> See Amex Rule 462 and Section 107B of the Company Guide.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

**III. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2002-76 and should be submitted by December 20, 2002.

**IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change**

After careful review, the Commission finds that implementation of the proposed rule change is consistent with the requirements of Section 6 of the Act<sup>18</sup> and the rules and regulations thereunder applicable to a national securities exchange.<sup>19</sup> Specifically, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act.<sup>20</sup> The Commission believes that the

availability of the Notes will provide an instrument for investors to achieve desired investment objectives through the purchase of an exchange-traded debt product linked to the Select Fifty Index. These objectives include participating in or gaining exposure to the Index while limiting somewhat downside risk. However, the Commission notes that the Notes are index-linked debt securities whose value in whole or in part will be based upon the performance of the S&P 500 Index. In addition, the Notes are non-principal protected: they do not have a minimum principal amount that will be repaid, and payments on the Notes at maturity may be less than their original issue price. For the reasons discussed below, the Commission has concluded that the Amex listing standards applicable to the Notes are consistent with the Act.

The Notes are non-convertible and will conform initially to the Amex listing guidelines under Section 107A of the Company Guide and continued listing guidelines under Sections 1001-1003 of the Company Guide. The specific maturity date will not be established until the time of the offering, but will be not less than one, nor more than ten years from the date of issue. The Notes will entitle the owner at maturity to receive an amount based upon the percentage change between the Starting Index Value (the value of the Index on the date the issuer prices the Notes for the initial sale to the public) and the Ending Index Value (the value of the Index over a period shortly prior to the expiration of the Notes). The Ending Index Value will be used in calculating the amount investors will receive upon maturity. The Notes will not have a minimum principal amount that will be repaid and, accordingly, payments on the Notes prior to, or at maturity, may be less than the original issue price of the Notes. During a two-week period in the designated month each year, investors will have the right to require the issuer to repurchase the Notes at a redemption amount based on the value of the Index at such repurchase date. The Notes are cash-settled in U.S. dollars and may not be called by the issuer. The Select Fifty Index will initially be set to provide a benchmark value of 100.00 at the close of trading on the date the Notes are priced for initial sale to the public.

The Notes are not-leveraged, non-principal protected instruments. The Notes are debt instruments whose price will be derived and based upon the value of the Select Fifty Index. The Notes do not have a minimum principal amount that will be repaid at maturity and the payments on the Notes prior to

or at maturity may be less than the original issue price of the Notes.<sup>21</sup> Thus, if the Select Fifty Index has declined at maturity, the holder of the Note may receive significantly less than the original public offering price of the Note. Accordingly, the level of risk involved in the purchase or sale of the Notes is similar to the risk involved in the purchase or sale of traditional common stock. Because the final rate of return of the Notes is derivatively priced, based on the performance of the Underlying Index, and because the Notes are instruments that do not guarantee a return of principal, there are several issues regarding the trading of this type of product.

The Commission notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the Notes. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the hybrid nature of the Notes. Moreover, the Commission notes that the Exchange will distribute a circular to its membership calling attention to the specific risks associated with the Notes. The circular should include, among other things, a discussion of the risks that may be associated with the Notes in addition to details on the composition of the Index and how the rates of return will be computed. Further, pursuant to Exchange Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes. Based on these factors, the Commission finds that the proposal to trade the Notes is consistent with Section 6(b)(5) of the Act.<sup>22</sup> The Commission also notes that Merrill Lynch will deliver a prospectus in connection with the initial purchase of the Notes.

The Commission notes that the Notes are dependent upon the individual credit of the issuer, Merrill Lynch. To some extent this credit risk is minimized by the Exchange's listing standards in Section 107A of the Company Guide which provide the only issuers satisfying substantial asset and equity requirements may issue securities such as the Notes. In addition,

<sup>21</sup> The Commission recognizes that during a two-week period in the designated month investors will have the right to require the issuer to repurchase the Notes at a redemption amount based on the value of the Select Fifty Index at such repurchase date.

<sup>22</sup> 15 U.S.C. 78f(b)(5).

<sup>18</sup> 15 U.S.C. 78f.

<sup>19</sup> 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>20</sup> *Id.*

the Exchange's "Other Securities" listing standards further require that the Notes have at least \$4 million in market value.<sup>23</sup> In any event, financial information regarding Merrill Lynch, in addition to the information on the Underlying Index, will be publicly available.<sup>24</sup>

The Commission also has a systemic concern, however, that a broker-dealer, such as Merrill Lynch, or a subsidiary providing a hedge for the issuer will incur position exposure. However, as the Commission has concluded in previous approval orders for other hybrid instruments issued by broker-dealers,<sup>25</sup> the Commission believes that this concern is minimal given the size of the Notes issuance in relation to the net worth of Merrill Lynch.

The Commission also believes that the listing and trading of the Notes should not unduly impact the market for the component securities of the Underlying Index or raise manipulative concerns. The Commission notes that the Exchange maintains the Select Fifty Index and states that it has sole discretion in determining, calculating, and maintaining the Index. However, the prospectus provides that guidelines under which the Exchange will perform such functions. The Commission also notes that the Index is equal-dollar weighted but is only rebalanced on an annual basis; however, the Commission notes that the S&P 500 Index is broad-based and composed of stocks with significant market capitalization and average daily trading volume. The Commission further notes that the Exchange's rules and procedures that address the special concerns attendant to the trading of hybrid securities will be applicable to the Notes. In particular, by imposing the hybrid listing standards, suitability, disclosure, and compliance requirements noted above, the Commission believes the Exchange has addressed adequately the potential problems that could arise from the

hybrid nature of the Notes. The Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes to: (1) Determine that such transaction is suitable for the customer, and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics, and bear the financial risks, of such transaction.

In addition, the Amex equity margin rules and debt trading rules will apply to the Notes. The Commission believes that the application of these rules should strengthen the integrity of the Notes. The Commission also believes that the Amex has appropriate surveillance procedures in place to detect and deter potential manipulation for similar index-linked products. By applying these procedures to the Notes, the Commission believes that the potential for manipulation of the Notes is minimal, thereby protecting investors and the public interest. The Commission further notes that the underlying Index on which the Select Fifty Index is based (the S&P 500 Index), is broad-based and independent of both the Exchange and the Issuer, factors that the Commission believes should act to minimize the possibility of manipulation.

The Commission notes that the Select Fifty Index is equal-dollar weighted index and that the portfolio of securities underlying the Index will be rebalanced annually—rather than quarterly—by the Amex so as to include the fifty stocks (excluding Merrill Lynch and its affiliates) having the largest market capitalization in the S&P 500 Index on the second scheduled index business day prior to the anniversary date. Although quarterly rebalancing is generally required with respect to options and futures linked to an equal-dollar weighted index,<sup>26</sup> Amex maintains, and the Commission believes, that there are relevant distinctions between the Notes and index options and futures. Specifically, unlike options and futures, debt products, such as the Notes, do not provide a leveraged "play" on the value of the index and are not generally actively traded, but instead are a "buy and hold" investment.<sup>27</sup> Although the Commission has significant concerns about the frequency of rebalancing in the cases of options and futures linked to an equal-dollar weighted index (because of their leveraged nature and

active trading), the Commission believes that the Amex's proposal to rebalance the Select Fifty Index on an annual basis is consistent with the Act.

Amex has requested that the Commission find good cause for approving the proposed rule change, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Amex has requested accelerated approval because this product is similar to several other instruments currently traded on the Amex. In determining to grant the accelerated approval for good cause, the Commission notes that the underlying Index on which the Select Fifty Index is based (the S&P 500) is a broad-based index providing an indication of the performance of the U.S. equity market. The Commission further notes that it has previously approved the listing of options on, and securities the performance of which have been linked to or based on the S&P 500 Index. Additionally, the Notes will be listed pursuant to existing hybrid security listing standards as described above. Based on the above, the Commission finds good cause to accelerate approval of the proposed rule change, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>28</sup> that the proposed rule change, (SR-Amex-2002-76) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>29</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 02-30199 Filed 11-27-02; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>23</sup> See Company Guide Section 107A.

<sup>24</sup> The companies that comprise the Oil and Natural Gas Index are reporting companies under the Act, and the Notes will be registered under Section 12 of the Act.

<sup>25</sup> See, e.g., Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving the listing and trading of notes whose return is based on the performance of the Nasdaq-100 Index) (File No. SR-NASD-2001-73); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving the listing and trading of notes whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index) (File No. SR-Amex-2001-40); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving the listing and trading of notes whose return is based on a weighted portfolio of healthcare/biotechnology industry securities) (File No. SR-Amex-96-27).

<sup>26</sup> See, e.g., Amex Rule 901C, Commentary .02.

<sup>27</sup> Telephone conference among Jeffrey Burns, Assistant General Counsel, Amex, Florence Harmon, Senior Special Counsel, and Geoffrey Pemble, Special Counsel, Division of Market Regulation, Commission, on November 19, 2002.

<sup>28</sup> 15 U.S.C. 78s(b)(2).

<sup>29</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46881; File No. SR-PCX-2002-71]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc. To Require Industry Parties in Arbitration To Waive Application of Contested California Arbitrator Disclosure Standards, Upon the Request of Customers and Associated Persons With Claims of Statutory Employment Discrimination, for a Six-Month Pilot Period

November 21, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 7, 2002, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons described below, the Commission is granting accelerated approval to the proposed rule change.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX and PCX Equities, Inc. ("PCXE") are proposing a rule change to amend their rules to require industry parties in arbitration to waive application of contested California arbitrator disclosure standards upon the request of customers or, in industry cases, upon the request of associated persons with claims of statutory employment discrimination, for a six-month pilot period from November 21, 2002 to May 22, 2003.<sup>3</sup> Below is the text of the proposed rule change. Proposed new language is *italicized*, deleted text is in [brackets].

\* \* \* \* \*

#### Rules of the Board of Governors of the Pacific Exchange, Inc.

##### Rule 12 Arbitration

##### Matters Subject to Arbitration

Rule 12.1(a)-(g)—No change.

#### Commentary:

.01—No change.

.02—It may be deemed conduct inconsistent with just and equitable principles of trade for a member, a member organization or a person associated with a member or member organization to fail to submit to arbitration on demand under the provisions of this Rule[,]; or to fail to waive the California Rules of Court, Division VI of the Appendix, entitled "Ethics Standards for Neutral Arbitrators in Contractual Arbitration" (the "California Standards"), if all the parties in the case who are customers have waived application of the California Standards in that case; or to fail to waive the California Standards if all associated persons with a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute have waived application of the California Standards in that case; or to fail to appear or to provide any document in his or its possession or control as directed pursuant to the provisions of this Rule; or to fail to honor an award of arbitrators properly rendered pursuant to the provisions of this Rule where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

.03—No change.

\* \* \* \* \*

#### PCX Equities, Inc.

##### Rule 12 Arbitration

##### Matters Subject to Arbitration

Rule 12.1—No change.

Rule 12.2 (a)-(g)—No change.

(h) It may be deemed conduct inconsistent with just and equitable principles of trade for an ETP Holder or a person associated with an ETP Holder to fail to submit to arbitration on demand under the provisions of this Rule[,]; or to fail to waive the California Rules of Court, Division VI of the Appendix, entitled "Ethics Standards for Neutral Arbitrators in Contractual Arbitration" (the "California Standards"), if all the parties in the case who are customers have waived application of the California Standards in that case; or to fail to waive the California Standards if all associated persons with a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute have waived application of the California Standards in that case; or to fail to appear or to provide any document in his or her or its possession or control as directed pursuant to the provisions of this Rule or to fail to

honor an award of arbitrators properly rendered pursuant to the provisions of this Rule where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

(i)-(j)—No change.

\* \* \* \* \*

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change.<sup>4</sup> The text of these statements may be examined at the places specified in Item III below. PCX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange states that it makes every effort to provide investors who bring their claims to PCX with a fair, efficient, and economical arbitration forum. In July 2002, the California Rules of Court, Division VI of the Appendix, entitled, "Ethics Standards of Neutral Arbitrations in Contractual Arbitration" (the "California Standards") became effective (further described below). Prior to the enactment of the California Standards, the Exchange states that it, along with the National Association of Securities Dealers, Inc. ("NASD") and the New York Stock Exchange ("NYSE", and collectively with PCX and NASD, the "Exchanges"), made several efforts to raise their concerns about the California Standards with the California Judicial Council and Legislative staff. The Exchange states that these attempts did not meet with any success, and the California Standards became effective without addressing the Exchanges' concerns. Since then, PCX has been attempting to develop an appropriate process by which it can appoint arbitrators in California.

NASD and NYSE filed a joint complaint in federal court for declaratory relief (the "Complaint") in which they contend that the California Standards cannot lawfully be applied to NASD and NYSE, because the California Standards are preempted by federal law

<sup>4</sup> The discussion in this section represents the Exchange's views on the situation in California and does not in any way represent a Commission position on this issue.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Telephone conversation between Betsy James, Assistant General Counsel, PCX, and Andrew Shipe, Special Counsel, Division of Market Regulation, SEC, November 21, 2002.

and are inapplicable to self-regulatory organizations ("SROs") under state law.<sup>5</sup> On September 18, 2002, the Commission moved to appear in the case as a friend of the court and submitted a brief in which it contended that the California Standards conflict with and thus are preempted by the Commission's regulation of SRO arbitration under the Act and by the Federal Arbitration Act.<sup>6</sup> On November 12, 2002, the district court dismissed the case on the ground that the defendants were immune from suit under the Eleventh Amendment of the Constitution.

While waiting for the court's guidance on this issue, NASD and NYSE announced that they were temporarily postponing the appointment of arbitrators for new arbitrations in California. While PCX has not joined in the Complaint to date, PCX concurs with NASD's and NYSE's position in this matter, as well as the Commission's as set forth in its friend of the court brief, and believes that the court's decision could be applicable to PCX also. PCX has therefore been reluctant to appoint arbitrators pending the court's decision.

On September 5, 2002, Harvey L. Pitt, Chairman of the Commission, sent a letter to NASD and NYSE requesting them to explore ways to expedite processing of arbitration claims involving California parties.<sup>7</sup> In response, NASD proposed the implementation of a six-month amendment to its rules, requiring all parties that are member firms or associated persons to waive the California Standards if all the parties in the case who are customers or associated persons with a statutory employment discrimination claim have waived the California Standards in that case. This Rule Filing was published in the **Federal Register** on October 3, 2002, and the Commission granted accelerated

approval.<sup>8</sup> In the interest of continuing to provide investors with an arbitral forum in California, and of being responsive to the Commission's desire that the Exchanges offer some alternatives to parties pending resolution of the applicability of the California Standards to the Exchanges, PCX proposes an amendment to its Rules substantially similar to NASD's.

#### **Background Regarding the California Standards**

The California Standards became effective July 1, 2002. They are intended to address potential conflicts of interest that could exist in private arbitration forums. The Exchanges' arbitration forums, however, are part of a federal regulatory system overseen on a uniform basis by the Commission. The conflicts that the California Standards are designed to address do not exist in the Exchanges' arbitration forums, which are highly regulated dispute resolution programs. The Commission Staff sent a letter on July 1, 2002, requesting that the arbitration programs administered by the SROs be exempted from the California Standards.

The California Standards place excessive and unnecessary disclosure burdens on persons who would serve on PCX arbitration panels and who already must meet PCX's stringent disclosure requirements. The extensive record-keeping requirements, and the potential liability for even inadvertent violations of the California Standards, led PCX to conclude that if PCX were required to implement the California Standards, PCX arbitrations would be more time consuming, more costly, and there would be less arbitrators willing to be members of PCX's arbitrator pool. The California Standards would permit a party to require the removal of an arbitrator for disclosing even an immaterial relationship. An arbitrator's inadvertent failure to disclose even an immaterial relationship could also result in the removal of the arbitrator, or the vacatur of an award. The alternative dispute resolution administrator would no longer have the power to decide contested challenges to arbitrators under the California Standards. Instead, the parties would have unilateral authority to require removal of arbitrators based on disclosures under the California Standards, whether the disclosures were material or not.

NASD and NYSE filed extensive comments when the California Standards were proposed in February

2002, and followed up with meetings with the Judicial Council and Legislative staff, some of which PCX also attended. PCX also filed a letter with the Judicial Council concurring with the positions taken by NASD and NYSE and objecting to the application of the California Standards to PCX's arbitration program. Despite this, the California Standards were implemented without addressing the basic concerns of the Exchanges. NYSE and NASD formally announced in July 2002, that they were postponing appointment of arbitrators in California until this matter was resolved. PCX has been attempting to determine how it can panel arbitrations in this environment. PCX is concerned that any attempt to seat arbitrators pursuant to the California Standards would result in: (a) the potential for limitless objections to arbitrators based on potentially immaterial disclosures required under the California Standards, (b) unacceptable risk of liability to arbitrators and PCX, (c) the likelihood that PCX's arbitrator pool would decrease dramatically due to the costs associated with the required record-keeping and the risk of liability, and (d) an overall increase in the cost of arbitrations to the parties due to all of these factors.

#### **Proposed Rule Change**

PCX states that it has a strong desire to accommodate parties to arbitration in California in this uncertain environment. PCX reviewed NASD's proposed rule change that would require industry parties to waive the California Standards in all cases in which all the parties in the case who are customers (or in industry cases, who are associated persons with claims of statutory employment discrimination) agree to waive the application of the California Standards. PCX states that implementation of a similar rule change would be an acceptable temporary way to allow PCX to continue to provide arbitration, pending a more permanent solution. Pursuant to the waiver permitted by this Rule change, the matter would proceed under the existing PCX Arbitration Rules, which already contain extensive disclosure requirements and provisions for challenging arbitrators with potential conflicts of interest.

Once the proposed rule filing is effective, PCX will notify investors and associated persons with claims of statutory employment discrimination, giving them the option of waiving the California Standards and providing them with waiver forms. PCX staff will also speak with investors and other

<sup>5</sup> See Motion for Declaratory Judgment, NASD Dispute Resolution, Inc. and New York Stock Exchange, Inc., v. Judicial Council of California, filed in the United States District Court for the Northern District of California, No. C 02 3486 SBA (July 22, 2002), available on the NASD Web site at: [www.nasdadr.com/pdf-text/072202\\_ca\\_complaint.pdf](http://www.nasdadr.com/pdf-text/072202_ca_complaint.pdf).

<sup>6</sup> See Brief of the Securities and Exchange Commission, Amicus Curiae, in Support of Plaintiffs' Motion for Declaratory Judgment, NASD Dispute Resolution, Inc. and New York Stock Exchange, Inc., v. Judicial Council of California. The brief is available on the Commission Web site at: [www.sec.gov/litigation/briefs/nasddispute.pdf](http://www.sec.gov/litigation/briefs/nasddispute.pdf).

<sup>7</sup> See letter from Chairman Pitt to Robert R. Glauber, Chairman and CEO of NASD, and Richard Grasso, Chairman and CEO of NYSE, dated September 5, 2002.

<sup>8</sup> See Securities Exchange Act Release No. 34-46562 (September 26, 2002), 67 FR 62085 (SR-NASD-2002-126).

parties to explain this process, and will endeavor to provide additional information on its website.

At the same time, PCX will notify industry parties in all pending California cases that they must waive the California Standards if the investor agrees to a waiver (or associated person, in the circumstances described above). Industry parties in such cases will be required to execute waiver agreements. However, their failure to do so will not stop the cases from moving forward.<sup>9</sup> An industry party's failure to sign the waiver as required by the proposed rule change will be referred for disciplinary action.

If all parties waive the California Standards as permitted by the proposed Rule change, PCX will immediately commence the arbitrator appointment process using the PCX Rules regarding arbitrator disclosures, and not the California Standards.

PCX requests that this Rule change become effective immediately, for a six-month pilot period. If the outcome of NASD's and NYSE's lawsuit is that the California Standards do not apply to SROs, the waivers will no longer be necessary. Cases that had already been empanelled pursuant to a waiver would continue to conclusion with the existing panel. If the lawsuit has not concluded by the expiration of the initial six-month period, PCX may request an extension.

## 2. Statutory Basis

PCX believes that this proposal is consistent with section 6(b)<sup>10</sup> of the Act, in general, and furthers the objectives of section 6(b)(5),<sup>11</sup> in particular, in that it is designed to facilitate transactions in securities; to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and in general, to protect investors and the public interest. PCX believes that expediting the appointment of arbitrators under the proposed waiver, at the request of customers and associated persons with

claims of statutory employment discrimination, will allow those parties to exercise their contractual rights to proceed in arbitration in California, notwithstanding the confusion and uncertainty caused by the California Standards.

## B. Self-Regulatory Organization's Statement on Burden on Competition

PCX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

## C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-2002-71 and should be submitted by December 20, 2002.

## IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 of the Act.<sup>12</sup> Specifically, the Commission finds that the proposal is consistent

with section 6(b)(5) of the Act, which requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.<sup>13</sup> The Commission further finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval is necessary to protect investors in that the rules are designed to help address the backlog of cases created by the confusion over the new California Standards, are designed to provide them with a mechanism to help resolve their disputes with broker-dealers in a more expedited manner, and are designed to help ensure the certainty and finality of arbitration awards. Additionally, the proposed rule change will become effective as a pilot program for six months, from November 21, 2002 to May 22, 2003, during which time the Commission and the Exchange will monitor the status of the previously discussed litigation.

## V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR-PCX-2002-71) is hereby approved on an accelerated basis through May 22, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 02-30197 Filed 11-27-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46874; File No. SR-Phlx-2002-64]

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Change the Exchange's Calculation of Transaction Charges From a Value-Based System to a Share-Based System

November 21, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

<sup>9</sup>In these situations, PCX will treat the industry parties as having waived the California standards. Telephone conversation between Peter Bloom, Director of Policy Development, PCX, and Andrew Shipe, Division of Market Regulation, SEC, November 21, 2002.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> In approving the proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

("Act"),<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 24, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Phlx under section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend its schedule of dues, fees and charges to change its current equity value transaction charge from a transaction value-based method to a share-based method. Equity transaction charges will be assessed on a sliding scale in relation to how many shares are traded per transaction, as opposed to the total value of the transaction. The proposed equity per share transaction charge will continue to exclude specialist trades and PACE trades, and will continue to be subject to a \$50 maximum fee per trade side.<sup>4</sup> The Exchange intends to implement the equity per share transaction charge for transactions settling on or after November 1, 2002.<sup>5</sup>

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

#### EQUITY TRANSACTION VALUE CHARGE I

[Based on total value of monthly transactions with the exception of specialist trades and PACE trades.]

[Monthly transaction value	Rate per \$1,000]
[0—25mm	\$0.14]
[25mm—100mm	0.12]

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> PACE is the acronym for the Phlx's Automated Communication and Execution System. It is the Phlx's order routing, delivery, execution and reporting system for its equity trading floor. See Phlx Rule 229.

<sup>5</sup> This fee will continue to be eligible for the monthly credit of up to \$1,000 to be applied against certain fees, dues and charges and other amounts owed to the Exchange by certain members. See Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001)(SR-Phlx-2002-32).

[Monthly transaction value	Rate per \$1,000]
[100mm—250mm	0.10]
[250mm—500mm	0.05]
[500mm and over	0.015]

*Based on total shares per transaction with the exception of specialist trades and PACE trades.*

<i>Transaction fee</i>	<i>Rate per share</i>
<i>First 500 shares</i>	<i>\$0.00</i>
<i>Next 2,000 shares</i>	<i>0.0075</i>
<i>Next 7,500 shares</i>	<i>0.005</i>
<i>Remaining shares</i>	<i>0.004</i>
<i>\$50 maximum fee per trade side.</i>	

\* \* \* \* \*

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The purpose of the proposed rule change is to change the Phlx's calculation of transaction charges from a value-based system to a share-based system in order to simplify the Phlx's transaction fee schedule. The Exchange believes a share-based system is easier for a member organization or a member to calculate current, and predict future, costs associated with these transactions. In addition, other exchanges use a share-based system.<sup>6</sup>

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of section 6(b)(4)<sup>8</sup> in particular, in that it provides for the equitable allocation of reasonable

<sup>6</sup> See Securities Exchange Act Release Nos. 36753 (January 22, 1996), 61 FR 2851 (January 29, 1996)(SR-CHX-95-30); and 43664 (December 4, 2000), 65 FR 77952 (December 13, 2000)(SR-NYSE-2000-50).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

dues, fees and other charges among Exchange members.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>10</sup> because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR-Phlx-2002-64, and should be submitted by December 20, 2002.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).



For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-30196 Filed 11-27-02; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### User Input to the Procurement Executive Council Socio-Economic Subcommittee

**AGENCY:** Small Business Administration, Interagency Committee on Subcontract Reporting.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Subcontract Reporting Subcommittee of the Socio-Economic Committee of the Procurement Executive Council will hold an Industry Forum on December 16, 2002, at 10 a.m. to 1 p.m. hosted by the Small Business Administration at 409 Third Street, SW., Washington, DC 20416 in the Eisenhower Conference Room. The purpose of the forum is to demonstrate an existing government-owned internet-based electronic reporting system, describe anticipated enhancements necessary to implement government-wide electronic subcontract reporting, and obtain comments from potential industry users. Potential users are other than small businesses required to submit subcontract reports pursuant to Federal Acquisition Regulation 52.219-9. Space is limited so seating is on a first-come basis. Those planning to attend should register at: [SpecialMeeting@sba.gov](mailto:SpecialMeeting@sba.gov).

**DETAILS:** December 16, 2002; Small Business Administration, 10 a.m. to 1 p.m. in the Eisenhower Conference Room. The objective of this meeting is to provide an opportunity for industry users to provide input on plans for implementing a government-wide electronic subcontract reporting system.

**DATES:** The meeting will be held at 10 a.m. to 1 p.m. on December 16, 2002.

**ADDRESSES:** The meeting will be held in the Eisenhower Conference Room at the headquarters of the Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

**TO REGISTER SEND E-MAIL TO:**

[SpecialMeeting@sba.gov](mailto:SpecialMeeting@sba.gov). For further information contact: Ms. Sylvia Boulware, Small Business Administration, 409 Third Street, SW., Washington, DC 20416; telephone number (202) 619-0477 or Fax: (202)

481-5735; or Ms. Janas Jackson, same address, telephone number (202) 205-7493; Fax: (202) 481-2390.

### SUPPLEMENTARY INFORMATION:

#### History

In 2002, the Procurement Executive Council's Socio-Economic Committee established the Subcontract Reporting Subcommittee to explore government-wide electronic subcontract reporting as part of the E-Government initiative. The Subcommittee is chaired by the Deputy Director of the Department of Navy's Office of Small and Disadvantaged Business Utilization and includes stakeholders from the Small Business Administration, Department of Defense, Department of Energy (DOE), Department of Health and Human Services, Department of State, and General Services Administration.

The DOE demonstrated its internet-based electronic subcontract reporting system to the Subcommittee. The Subcommittee is considering recommending adoption of the Department of Energy's system with enhancements for government-wide use to satisfy mandatory subcontract reporting requirements by other than small businesses.

This meeting is the industry forum intended to observe a demonstration of the current electronic reporting system, receive a description of planned enhancements, and provide comments regarding the merit and feasibility of adopting such a system for government-wide subcontract reporting.

#### Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the Subcontract Reporting Subcommittee.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate.

(c) DOE personnel present will conduct a demonstration of the current system. Any person will be allowed to ask questions during the demonstration and DOE personnel will clarify any capability of the current system that is not clear.

(d) Other Subcommittee personnel will present a briefing on the specific system enhancements desired. Any person will be allowed to ask questions during the presentation and Subcommittee personnel will clarify any part of the presentation that is not clear.

(e) Any person present may give feedback on the merit and feasibility of the desired enhancements presented. Feedback on the proposed product will be captured through discussion between Subcommittee personnel and any persons attending the meeting. The meeting will not be formally recorded. However, informal tape recordings may be made of the presentations to ensure that each respondent's comments are noted accurately.

(f) An official verbatim transcript or minutes of the informal meeting will not be made. However, a list of the attendees and a digest of discussions during the meeting will be produced. Any person attending may receive a copy of the written information upon request to the information contact, above.

(g) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback may also be submitted to Subcommittee personnel for up to 14 days after the close of the meeting.

#### Agenda

(a) Opening Remarks and Discussion of Meeting Procedures.

(b) Demonstration of DOE Subcontract Reporting System.

(c) Briefing on Desired System Enhancements.

(d) Request for User Input.

(e) Closing Comments.

**Linda G. Williams,**

*Associate Administrator for Government Contracting, Small Business Administration.*

[FR Doc. 02-30302 Filed 11-27-02; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF STATE

### Office of the Secretary

[Public Notice 4212]

### Extension of the Restriction on the Use of United States Passports for Travel to, in, or Through Libya

On December 11, 1981, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73 (a) (3), all United States passports were declared invalid for travel to, in, or through Libya unless specifically validated for such travel. This restriction has been renewed yearly because of the unsettled relations between the United States and the Government of Libya and the possibility of hostile acts against Americans in Libya. The American Embassy in Tripoli

<sup>11</sup> 17 CFR 200.30-3(a)(12).

remains closed, thus preventing the United States from providing routine diplomatic protection or consular assistance to Americans who may travel to Libya.

In light of these events and circumstances, I have determined that Libya continues to be an area “\* \* \* where there is imminent danger to the public health or physical safety of United States travellers” within the meaning of 22 U.S.C. 211a and 22 CFR 51.73(a)(3).

Accordingly, all United States passports shall remain invalid for travel to, in, or through Libya unless specifically validated for such travel under the authority of the Secretary of State.

The Public Notice shall be effective upon publication in the **Federal Register** and shall expire at midnight November 24, 2003, unless extended or sooner revoked by Public Notice.

Dated: November 22, 2002.

**Colin L. Powell,**

*Secretary of State, Department of State.*

[FR Doc. 02-30450 Filed 11-26-02; 8:45 pm]

BILLING CODE 4710-06-P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Request for Comments Concerning Compliance With Telecommunications Trade Agreements

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of request for public comment and reply comment.

**SUMMARY:** Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) (“section 1377”), the Office of the United States Trade Representative (“USTR”) is reviewing, and requests comments on: The operation and effectiveness of and the implementation of and compliance with the World Trade Organization (“WTO”) Basic Telecommunications Agreement; other WTO agreements affecting market opportunities for telecommunications products and services of the United States; the telecommunications provisions of the North American Free Trade Agreement (“NAFTA”); and, other telecommunications trade agreements with the Asia Pacific Economic Cooperation (“APEC”) members, the European Union (“EU”), the Inter-American Telecommunications Commission (“CITEL”), Japan, Korea, Mexico and Taiwan. The USTR will conclude the review on March 31, 2003.

**DATES:** Comments are due by noon on January 3, 2003, and Reply Comments are due by noon on January 24, 2003.

**ADDRESSES:** Comments should be submitted to Rhonda Schnare, Office of General Counsel, Attn: Section 1377 Comments, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. As explained below, in order to ensure the most timely and expeditious receipt and consideration of comments and reply comments, USTR has arranged to accept submissions in electronic format (e-mail). Comments should be submitted electronically to [fr0056@ustr.gov](mailto:fr0056@ustr.gov).

**FOR FURTHER INFORMATION CONTACT:** Kenneth Schagrin, Office of Industry and Telecommunications (202) 395-5663; or Rhonda Schnare, Office of the General Counsel (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Section 1377 requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services of the United States that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a telecommunications trade agreement with the United States is inconsistent with the terms of such agreement, or otherwise denies to U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities. For the current review, the USTR seeks comments on:

(1) Whether any WTO member is acting in a manner that is inconsistent with its commitments under the WTO Basic Telecommunications Agreement or with other WTO obligations, *e.g.*, the WTO General Agreement on Trade in Services (“GATS”), including the Annex on Telecommunications and the Reference Paper on Pro-Competitive Regulatory Principles, that affect market opportunities for U.S. telecommunications products and services;

(2) Whether Canada or Mexico has failed to comply with their telecommunications commitments under NAFTA;

(3) Whether APEC or CITEL members, the EU, Japan, Korea, Mexico or Taiwan have failed to comply with their commitments under additional telecommunications agreements with the United States.<sup>1</sup>

<sup>1</sup> Japan: The 1999 Nippon Telegraph and Telephone (NTT) agreement; the 1994 U.S.-Japan Public Sector Procurement Agreement on Telecommunications Products and Services; and, additional telecommunications trade agreements

(4) Whether there remains outstanding issues from previous Section 1377 reviews on those countries or issues previously cited. Last year’s review concluded that it would focus attention on the following practices as a matter of priority: (1) Mobile wireless termination rates in the European Union (EU) Member States and Japan, (2) provisioning and pricing of leased telecom lines in EU Member States and Switzerland, and (3) interconnection and other competitive concerns in Mexico. USTR continues to closely monitor other telecommunications trade practices identified in the following countries: Australia, Brazil, China, Colombia, India, Japan, Peru, and South Africa.

See 63 FR 1140 (January 8, 1998) for further information concerning the agreements listed below and USTR Press Release 02-XX available at <http://www.ustr.gov>, for the results of the 2001-2002 section 1377 review concerning these agreements.

### Public Comment and Reply Comment: Requirements for Submissions

*USTR requests comments on:* The operation and effectiveness of—including implementation of and compliance with—the WTO Basic Telecommunications Agreement; other WTO agreements affecting market opportunities for telecommunications products and services of the United States; the NAFTA; and other telecommunications trade agreements with APEC members, CITEL members,

with Japan, including a series of agreements on: International value-added network services (IVANS) (1990-91); open government procurement of all satellites, except for government research and development satellites (1990); network channel terminating equipment (NCTE) (1990); and cellular and third-party radio systems (1989) and cellular radio systems (1994).

Korea: Agreements regarding protection of intellectual property rights (“IPR”) (1996), type approval of telecommunications equipment (1992/1996), transparent standard-setting processes, (1992/1997) and non-discriminatory access to Korea Telecommunications’ procurement of telecommunications products (1992/1996).

Mexico: The 1997 understanding regarding test data acceptance agreements between product safety testing laboratories.

Mutual Recognition Agreements For Conformity Assessment of Telecommunications Equipment: Mutual Recognition Agreements (“MRAs”) regarding telecommunications equipment trade with the European Union (1997), APEC countries (1998), and CITEL countries (1999).

Taiwan: The February 1998 agreement on interconnection pricing for provision of wireless services in Taiwan; and, the July 1996 agreement on the licensing and provision of wireless services through the establishment of a competitive, transparent and fair wireless market in Taiwan. USTR also seeks comments on telecommunications commitments made by Taiwan to the United States in October 1999 and February 1998 as part of its accession to the WTO.

the EU, Japan, Korea, Mexico and Taiwan. All comments must be in English, identify on the first page of the comments the telecommunications trade agreement(s) discussed therein, be addressed to Gloria Blue, Executive Secretary, TPSC, Attn: Section 1377 Comments, Office of the U.S. Trade Representative, and be submitted in 15 copies by noon on January 3, 2003. Reply Comments will also require 15 copies by noon on January 24, 2003.

In order to ensure the most timely and expeditious receipt and consideration of comments and reply comments, USTR has arranged to accept submissions in electronic format (e-mail). Comments should be submitted electronically to [fr0056@ustr.gov](mailto:fr0056@ustr.gov). An automatic reply confirming receipt of e-mail submission will be sent. E-mail submissions in Microsoft Word or Corel WordPerfect are preferred. If a word processing application other than those two is used, please include in your submission the specific application used. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters "BC", and the file name of the public version should begin with the character "P". The "BC" and "P" should be followed by the name of the person or entity submitting the comments or reply comments. Interested persons who make submissions electronically should not provide separate cover letters; rather, information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

We strongly urge people to avail themselves of the electronic filing, if at all possible. If an e-mail submission is impossible, 15 copies may be submitted in accordance with the procedures listed below, and if not filed electronically must be delivered via private commercial courier, and arrangements must be made with Ms. Blue prior to delivery for their receipt. Ms. Blue should be contacted at (202) 395-3475.

All non-confidential comments and reply comments will be placed on the USTR website, <http://www.ustr.gov> and in the USTR Reading Room for inspection shortly after the filing deadline, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential information submitted in accordance with 15 CFR 2003.6, must be clearly marked

"BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 15 copies, and must be accompanied by 15 copies of a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the USTR Public Reading Room. Since comments and reply comments will be posted on USTR's website, those persons not availing themselves of electronic filing must submit their 15 copies with a diskette. USTR will post the non-confidential version of the filing, therefore the non-confidential version must be clearly marked on the diskette.

An appointment to review the comments may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 3 of 1724 F Street, NW.

Dated: November 25, 2002.

**Peter B. Davidson,**  
*General Counsel.*

[FR Doc. 02-30311 Filed 11-27-02; 8:45 am]

**BILLING CODE 3190-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement: Rutland County, Vermont

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed relocation of the Rutland rail switching yard and related improvements.

**FOR FURTHER INFORMATION CONTACT:** Rob Sikora, Environmental Program Manager, Federal Highway Administration, P.O. Box 568, Montpelier, Vermont 05601. Telephone: 802-828-4433.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Vermont Agency of Transportation (VTrans) and the Rutland Redevelopment Authority (RRA), will prepared an Environmental Impact Statement (EIS) for the proposed relocation of the Rutland rail switching yard and related improvements in Rutland, Vermont. Relocation of the existing rail yard is considered necessary due to changes to both the City of Rutland and the railroad. The

existing rail yard site is in downtown Rutland. Industry in Rutland has changed and the rail yard results in frequent noise, traffic delay and congestion, safety hazards to pedestrians and vehicles, and occupies land that could be redeveloped.

Other improvements related to the proposed rail yard relocation are the construction of a new access road from Route 4 to downtown Rutland paralleling the rail line corridor, a connector track at Howe Center between the Green Mountain Railroad Corporation (GMRC) and the switching yard and a connector track in Center Rutland, Town of Rutland, between the Clarendon and Pittsford Railroad (CLP) and Vermont Railway (VTR).

Alternatives under consideration include (1) taking no action; (2) improvement to the existing rail yard; and (3) alternative relocation sites with associated connector tracks and downtown access roads.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held in Rutland. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 20, 2002.

**Kenneth R. Sikora, Jr.,**  
*Environmental Program Manager, Montpelier, Vermont.*

[FR Doc. 02-30201 Filed 11-27-02; 8:45 am]

**BILLING CODE 4910-22-M**

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****Environmental Impact Statement:  
South Kohala, HI**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in South Kohala, Hawaii.

**FOR FURTHER INFORMATION CONTACT:** Mr. Abraham Wong, Hawaii Division Administrator, Federal Highway Administration, Office Address: 300 Ala Moana Blvd., Room 3-306, Honolulu, Hawaii 96813, Mailing Address: Box 50206, Honolulu, Hawaii 96850, Telephone: (808) 541-2700.

**SUPPLEMENTARY INFORMATION:** The FHWA in cooperation with the State of Hawaii, Department of Transportation, Highways Division, will prepare an Environmental Impact Statement (EIS) for a new highway from Waimea Town to Kawaihae Harbor. The project will provide improved highway, approximately 14 miles in length, which will facilitate the movement of goods and people between Central and West Hawaii. The new highway would also be supportive of anticipated heavier traffic demands and special needs, including the movement of military and commercial truck traffic.

In addition to several highway alignments, the project will analyze various other alternatives, including: (1) no action and (2) transportation system management strategies.

A letter describing the proposed action and soliciting comments has been sent to appropriate Federal, State and local agencies, and to private organizations and individuals, who have expressed an interest in this project. Several interagency and public scoping meetings will soon be scheduled. A public hearing will be held after publication of the project's draft EIS; public notice will be given of the time and place of the hearing. In addition, the draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the above address.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 12, 2002.

**Abraham Wong,**

*Division Administrator, Hawaii.*

[FR Doc. 02-30270 Filed 11-27-02; 8:45 am]

**BILLING CODE 4910-22-M**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety  
Administration****Office of Research and Technology  
Forum**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of meeting/forum.

**SUMMARY:** This notice invites interested persons to participate in a forum sponsored by the FMCSA Office of Research and Technology for the purpose of: Sharing information regarding the FMCSA new research approach; Learning how to establish partnerships with the agency's Office of Research and Technology on future projects; and Providing information on the accomplishments of the Research and Technology Office since last year's Transportation Research Board (TRB) Annual Meeting.

*Where:* Marriott Wardman Park Hotel, in the Delaware Room, 2660 Woodley Road, NW., Washington, DC 20008.

*When:* Sunday, January 12, 2003, from 7:30 a.m. to 12:30 p.m.

*Registration:* To register for the forum and obtain more detailed information, you may visit the FMCSA R&T Forum Web site at: <http://www.fmcsa.dot.gov/rtforum>; or call (202) 493-0442.

**FOR FURTHER INFORMATION CONTACT:** Mr. Albert Alvarez, Office of Research and Technology (MC-RTR), Federal Motor Carrier Safety Administration, 400 Virginia Avenue, SW., Washington, DC 20024; telephone (202) 358-5684 or e-mail [albert.alvarez@fhwa.dot.gov](mailto:albert.alvarez@fhwa.dot.gov). Office hours are from 8 a.m. to 4:30 p.m., E.S.T., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Forum attendees will receive a Continental Breakfast and a Information Packet. The forum is open to the public, but will be limited to the space available. If you are planning to attend this forum, you *must* register online at: <http://www.fmcsa.dot.gov/rtforum>, or call (202) 493-0442 by *December 20, 2002*.

Individuals needing special accommodations (sign, reader, etc.), please call Joanie Cole at (202) 334-2287, or e-mail [jcole@nas.edu](mailto:jcole@nas.edu) by *December 20, 2002*.

**Note:** If you are planning to attend the TRB Annual Meeting, you must register separately for it at: <http://www4.trb.org/trb/annual.nsf>.

Issued on: November 25, 2002.

**Brian M. McLaughlin,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 02-30312 Filed 11-27-02; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF VETERANS  
AFFAIRS****Capital Asset Realignment for  
Enhanced Services (CARES)  
Commission****Notice of Establishment**

As required by section 9(a)(2) of the Federal Advisory Committee Act, the Department of Veterans Affairs (VA) hereby gives notice of the establishment of the Capital Asset Realignment for Enhanced Services (CARES) Commission. The Secretary of Veterans Affairs has determined that establishing the Commission is both necessary and in the public interest.

The Commission will conduct a nationwide review to determine VA's capability to support the delivery of veterans health care services through the next 20 years and will make specific recommendations to the Secretary regarding the realignment and allocation of capital assets necessary to provide such services. In making its recommendations, the Commission with focus on the accessibility and cost effectiveness of care to be provided, while ensuring that the integrity of VA's health care and related missions is maintained, and any adverse impact on VA staff and affected communities is minimized.

The Commission will consider recommendations submitted by the VA Under Secretary for Health and will also consider other views and concerns submitted in writing during a 60-day period following the Under Secretary's recommendations. The Commission will also hold public hearings to receive and consider the views and recommendations of veterans service organizations, Congress, medical school affiliates, VA employees, local government entities, affected community groups and other interested parties.

The Commission shall consist of members appointed by the Secretary. Those members shall serve as objective advisors to the Secretary. The Commission shall submit its recommendations to the Secretary not later than September 30, 2003, unless that date is extended by the Secretary.

Dated: November 22, 2002.

By Direction of the Secretary.

**Ronald R. Aument,**

*Deputy Chief of Staff.*

[FR Doc. 02-30300 Filed 11-27-02; 8:45 am]

BILLING CODE 8320-01-P

## DEPARTMENT OF VETERANS AFFAIRS

### Scientific Review and Evaluation Board for Health Services Research and Development Service, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development Service will be held at the Safety Harbor Resort, 105 North Bay Shore Drive, Safety Harbor, Tampa, FL 34695, from January 22-24, 2003. The Nursing Research Initiative (NRI) review will convene on January 22, 2003, from 8 a.m.-1 p.m. The Investigator Initiated Research (IIR) review will convene from 1 p.m. until 5 p.m. and 7 p.m. until 9 p.m. on January 22, 2003, from 8 a.m. until 5 p.m. on January 23, 2003, and from 8 a.m. until 5 p.m. on January 24, 2003.

The purpose of the meeting is to review research and development applications concerned with the measurement and evaluation of health care services and with testing new methods of health care delivery and management, and nursing research. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are prepared for the

Chief Research and Development Officer.

The Investigator Initiated Research review meeting will be open to the public on January 22 for approximately one half-hour from 7 p.m. until 7:30 p.m. to cover administrative matters and to discuss the general status of the program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would be likely to frustrate significantly the implementation of proposed agency action regarding such research projects). As provided by the subsection 10(d) of Public Law 92-463, as amended by Public Law 94-409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open session should contact the Assistant Director, Scientific Review (124F), Health Services Research and Development Service, Department of Veterans Affairs, 1400 Eye Street, NW., Suite 780, Washington, DC, at least five days before the meeting. For further information, call (202) 408-3661.

Dated: November 19, 2002.

By Director of the Secretary.

**Nora E. Egan,**

*Committee Management Officer.*

[FR Doc. 02-30194 Filed 11-27-02; 8:45 am]

BILLING CODE 8320-01-M

## DEPARTMENT OF VETERANS AFFAIRS

### Poverty Threshold

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Department of Veterans Affairs (VA) hereby gives notice of the weighted average poverty threshold established for 2001 for one person (unrelated individual) as established by the Bureau of the Census. The amount is \$9,039.

**DATES:** For VA determinations, the 2001 poverty threshold is effective September 24, 2002, the date on which it was established by the Bureau of the Census.

**FOR FURTHER INFORMATION CONTACT:** Paul Trowbridge, Consultant, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7218.

**SUPPLEMENTARY INFORMATION:** We published a final rule amending 38 CFR 4.16(a) in the **Federal Register** of August 3, 1990, 55 FR 31,579. The amendment provided that marginal employment generally shall be deemed to exist when a veteran's earned annual income does not exceed the amount established by the Bureau of the Census as the poverty threshold for one person. The provisions of 38 CFR 4.16(a) use the poverty threshold as a standard in defining marginal employment when considering total disability ratings for compensation based on unemployability of an individual. We stated we would publish subsequent poverty threshold figures as notices in the **Federal Register**.

The Bureau of the Census recently published the weighted average poverty thresholds for 2001. The threshold for one person (unrelated individual) is \$9,039.

Dated: November 20, 2002.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

[FR Doc. 02-30193 Filed 11-27-02; 8:45 am]

BILLING CODE 8320-01-P

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# Corrections

Federal Register

Vol. 67, No. 230

Friday, November 29, 2002

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This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Proposed Advisory Circular (AC) 145–MAN, Guide for Developing and Evaluating Repair Station and Quality Control Manuals**

##### *Correction*

In notice document 02–29666 appearing on page 70291 in the issue of

Thursday, November 21, 2002, make the following correction:

On page 70291, in the first column, under the **DATES** heading, in the third line, “February 5, 2002” should read, “February 5, 2003”.

[FR Doc. C2–29666 Filed 11–27–02; 8:45 am]

**BILLING CODE 1505–01–D**



# Federal Register

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**Friday,  
November 29, 2002**

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## **Part II**

## **Department of the Interior**

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### **Fish and Wildlife Service**

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#### **50 CFR Part 17**

**Endangered and Threatened Wildlife and  
Plants; Proposed Designation of Critical  
Habitat for the Klamath River and  
Columbia River Distinct Population  
Segments of Bull Trout and Notice of  
Availability of the Draft Recovery Plan;  
Proposed Rule and Notice**



## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

RIN 1018-A152

**Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Klamath River and Columbia River Distinct Population Segments of Bull Trout****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose designation of critical habitat for the Klamath River and Columbia River distinct population segments of bull trout (*Salvelinus confluentus*) pursuant to the Endangered Species Act of 1973, as amended (Act). For the Klamath River distinct population segment (DPS), the proposed critical habitat designation includes approximately 476 kilometers (km) (296 miles (mi)) of streams and 13,735 hectares (ha) (33,939 acres (ac)) of lakes and marshes in Oregon. For the Columbia River DPS, the proposed critical habitat designation totals approximately 29,251 km (18,175 mi) of streams and 201,850 ha (498,782 ac) of lakes and reservoirs, which includes: approximately 14,416 km (8,958 mi) of streams and 83,219 ha (205,639 ac) of lakes and reservoirs in the State of Idaho; 5,341 km (3,319 mi) of streams and 88,051 ha (217,577 ac) of lakes and reservoirs in the State of Montana; 5,460 km (3,391 mi) of streams and 18,077 ha (44,670 ac) of lakes and reservoirs in the State of Oregon; and 4,034 km (2,507 mi) of streams and 12,503 ha (30,897 ac) of lakes and reservoirs in the State of Washington.

If this proposal is made final, Federal agencies will be required to meet the requirements of section 7(a)(2) of the Act with regard to critical habitat. Specifically, Federal agencies shall, in consultation with us, ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The term "destruction or adverse modification" means direct or indirect alteration that appreciably diminishes the value of the critical habitat for both the survival and recovery of a listed species (50 CFR 402.02). Section 4(b)(2) of the Act requires our designation of critical habitat to be made on the basis of the best scientific data available and after taking into consideration the economic

impact, and any other relevant impact, of specifying any particular area as critical habitat.

We solicit data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation. We may revise this proposal prior to final designation to address new information received during the comment period.

**DATES:** We will consider all comments on this proposed rule received until the close of business on January 28, 2003. We will hold public hearings from 6 p.m. to 8 p.m. at the following locations on the dates specified: Wenatchee, WA, on January 7, 2003; Polson, MT, on January 7, 2003; Salmon, ID, on January 7, 2003; Spokane, WA, on January 9, 2003; Lewiston, ID, on January 9, 2003; Boise, ID, on January 14, 2003; Eugene, OR, on January 14, 2003; Pendleton, OR, on January 16, 2003; and Klamath Falls, OR, on January 22, 2003. (See the Public Hearings section for additional information, including specific addresses for each location.)

**ADDRESSES:** If you wish to comment, you may submit your comments and materials by any of several methods:

You may submit written comments and information to John Young, Bull Trout Coordinator, U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 NE. 11th Avenue, Portland, Oregon 97232 (telephone 503/231-6131; facsimile 503/231-6243).

You may hand-deliver written comments to our office during normal business hours at the address given above.

You may also send comments by electronic mail (e-mail) to: [R1BullTroutCH@r1.fws.gov](mailto:R1BullTroutCH@r1.fws.gov).

See the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** John Young, at the above address, (telephone 503/231-6131; facsimile 503/231-6243).

**SUPPLEMENTARY INFORMATION:****Background**

Bull trout (*Salvelinus confluentus*) are members of the char subgroup of the family Salmonidae and are native to waters of western North America. The historic range of bull trout includes major river basins in the Pacific Northwest from about 41° N to 60° N latitude, extending south to the McCloud River in northern California and the Jarbidge River in Nevada, and

north to the headwaters of the Yukon River in Northwest Territories, Canada (Cavender 1978; Bond 1992). To the west, bull trout range includes Puget Sound, various coastal rivers of British Columbia, Canada, and southeast Alaska (Bond 1992). Bull trout are relatively dispersed in the Columbia River and Snake River basins, extending east to headwater streams in Montana and Idaho, and into Canada. Bull trout also occur in the Klamath River basin of south-central Oregon. East of the Continental Divide in Canada, bull trout are found in the headwaters of the Saskatchewan River in Alberta and the MacKenzie River system in Alberta and British Columbia (Cavender 1978; Brewin and Brewin 1997).

Bull trout were first described as *Salmo spectabilis* by Girard in 1856, and subsequently described under various names, such as *Salmo confluentus* and *Salvelinus malma* (Cavender 1978). Bull trout and Dolly Varden (*Salvelinus malma*) previously were considered a single species (Cavender 1978; Bond 1992). However, in 1980, the American Fisheries Society formally recognized bull trout and Dolly Varden as separate species based on various specific physical differences and distributional information (Cavender 1978; Robins *et al.* 1980). Bull trout have an elongated body and large mouth, with the maxilla (jaw) extending beyond the eye and with well-developed teeth on both jaws and head of the vomer (a bone in teleost fishes that forms the front part of the roof of the mouth and often bears teeth). Bull trout have 11 dorsal fin rays, 9 anal fin rays, and the caudal fin is slightly forked. Although they are often olive green to brown with paler sides, color is variable with locality and habitat.

Bull trout exhibit a number of life-history strategies. Stream-resident bull trout complete their entire life cycle in the tributary streams where they spawn and rear. Some bull trout are migratory, spawning in tributary streams where juvenile fish usually rear from 1 to 4 years before migrating to either a larger river (fluvial) or lake (adfluvial) where they spend their adult life, returning to the tributary stream to spawn (Fraley and Shepard 1989). These migratory forms occur in areas where conditions allow for movement from upper watershed spawning streams to larger downstream waters that contain greater foraging opportunities (Dunham and Rieman 1999). Resident and migratory forms may be found together, and either form can produce resident or migratory offspring (Rieman and McIntyre 1993). Bull trout in the Coastal-Puget Sound area are believed to include an

anadromous form which migrates to saltwater to mature, returning to streams to spawn (64 FR 58912).

The size of bull trout is variable depending on life-history strategy. Resident bull trout tend to be small, averaging 200 millimeters (mm) (8 inches (in)) in length and rarely exceeding 305 mm (12 in). Adults that migrate to larger downstream rivers average about 405 mm (16 in), and often exceed 610 mm (24 in) (Goetz 1989). Maximum sizes are reached in large lakes and reservoirs where adults grow over 685 mm (27 in) in length and 10 kilograms (kg) (22 pounds (lbs)) in weight (McPhail and Baxter 1996). The largest recorded bull trout was taken in Lake Pend Oreille, Idaho, in 1949; it was almost 1 meter (m) (39 in) long and weighed 14.6 kg (32 lbs) (Simpson and Wallace 1982).

Under appropriate conditions, bull trout regularly live to 10 years, and under exceptional circumstances, reach ages in excess of 20 years (Fraley and Shepard 1989; McPhail and Baxter 1996). They normally reach sexual maturity in 4 to 7 years.

Bull trout are opportunistic feeders, with food habits that primarily are a function of size and life history strategy. Resident and juvenile migratory bull trout prey on terrestrial and aquatic insects, macro-zooplankton, and small fish (Donald and Alger 1993; McPhail and Baxter 1996). Adult migratory bull trout feed almost exclusively on other fish (Rieman and McIntyre 1993).

Bull trout have more specific habitat requirements than most other salmonids (Rieman and McIntyre 1993). Habitat components that particularly influence their distribution and abundance include water temperature, cover, channel form and stability, spawning and rearing substrate conditions, and migratory corridors (Fraley and Shepard 1989; Goetz 1989; Watson and Hillman 1997).

Relatively cold water temperatures are characteristic of bull trout habitat. Water temperatures above 15 °Celsius (°C) (59 °Fahrenheit (°F)) are believed to limit their distribution (Fraley and Shepard 1989; Rieman and McIntyre 1996). Although adults have been observed in large rivers throughout the Columbia River basin in water temperatures up to 20 °C (68 °F), Gamett (1999) documented steady and substantial declines in abundance in stream reaches where water temperature ranged from 15 to 20 °C (59 to 68 °F). Thus, water temperature may partially explain the generally patchy distribution of bull trout in a watershed. In large rivers, bull trout are often observed "dipping" into the lower reaches of tributary streams,

and it is suspected that cooler waters in these tributary mouths may provide important thermal refugia, allowing them to forage, migrate, and overwinter in waters that would otherwise be, at least seasonally, too warm. Spawning areas often are associated with cold-water springs, groundwater infiltration, and the coldest streams in a given watershed (Pratt 1992; Rieman and McIntyre 1993; Rieman *et al.* 1997).

Throughout their lives, bull trout require complex forms of cover, including large woody debris, undercut banks, boulders, and pools (Fraley and Shepard 1989; Watson and Hillman 1997). Juveniles and adults frequently inhabit side channels, stream margins, and pools with suitable cover (Sexauer and James 1997). McPhail and Baxter (1996) reported that newly emerged fry are secretive and hide in gravel along stream edges and in side channels. They also reported that juveniles are found mainly in pools but also in riffles and runs that they maintain focal sites near the bottom, and that they are strongly associated with instream cover, particularly overhead cover. Bull trout have been observed overwintering in deep beaver ponds or pools containing large woody debris (Jakober 1995). Adult bull trout migrating to spawning areas have been recorded as staying two to four weeks at the mouths of spawning tributaries in deeper holes or near log or cover debris (Fraley and Shepard (1989)).

The stability of stream channels and stream flows are important habitat characteristics for bull trout populations (Rieman and McIntyre 1993). The side channels, stream margins, and pools with suitable cover for bull trout are sensitive to activities that directly or indirectly affect stream channel stability and alter natural flow patterns. For example, altered stream flow in the fall may disrupt bull trout during the spawning period, and channel instability may decrease survival of eggs and young juveniles in the gravel during winter through spring (Fraley and Shepard 1989; Pratt 1992; Pratt and Huston 1993).

Watson and Hillman (1997) concluded that watersheds must have specific physical characteristics to provide the necessary habitat requirements for bull trout spawning and rearing, and that the characteristics are not necessarily ubiquitous throughout the watersheds in which bull trout occur. The preferred spawning habitat of bull trout consists of low-gradient stream reaches with loose, clean gravel (Fraley and Shepard 1989). Bull trout typically spawn from August to November during periods of

decreasing water temperatures (Swanberg 1997). However, migratory forms are known to begin spawning migrations as early as April, and to move upstream as much as 250 km (155 mi) to spawning areas (Fraley and Shepard 1989; Swanberg 1997). Fraley and Shepard (1989) reported that initiation of spawning by bull trout in the Flathead River system appeared to be related largely to water temperature, with spawning initiated when water temperatures dropped below 9–10 °C (48 to 50 °F). Goetz (1989) reported a temperature range from 4 to 10 °C (39 to 50 °F) (Goetz 1989). Such areas often are associated with cold-water springs or groundwater upwelling (Rieman *et al.* 1997; Baxter *et al.* 1999). Fraley and Shepard (1989) also found that groundwater influence and proximity to cover are important factors influencing spawning site selection. They reported that the combination of relatively specific requirements resulted in a restricted spawning distribution in relation to available stream habitat.

Depending on water temperature, egg incubation is normally 100 to 145 days (Pratt 1992). Water temperatures of 1.2 to 5.4 °C (34.2 to 41.7 °F) have been reported for incubation, with an optimum (best embryo survivorship) temperature reported to be from 2 to 4 °C (36 to 39 °F) (Fraley and Shepard 1989; McPhail and Baxter 1996). Juveniles remain in the substrate after hatching, such that the time from egg deposition to emergence of fry can exceed 200 days. During the relatively long incubation period in the gravel, bull trout eggs are especially vulnerable to fine sediments and water quality degradation (Fraley and Shepard 1989). Increases in fine sediment appear to reduce egg survival and emergence (Pratt 1992). Juveniles are likely similarly affected. High juvenile densities have been reported in areas characterized by a diverse cobble substrate and a low percent of fine sediments (Shepard *et al.* 1984).

The ability to migrate is important to the persistence of local bull trout subpopulations (Rieman and McIntyre 1993; Gilpin 1997; Rieman and Clayton 1997; Rieman *et al.* 1997). Bull trout rely on migratory corridors to move from spawning and rearing habitats to foraging and overwintering habitats and back. Migratory bull trout become much larger than resident fish in the more productive waters of larger streams and lakes, leading to increased reproductive potential (McPhail and Baxter 1996). The use of migratory corridors by bull trout also results in increased dispersion, facilitating gene flow among local populations when individuals

from different local populations interbreed, stray, or return to nonnatal streams. Also, local populations that have been extirpated by catastrophic events may become reestablished as a result of movements by bull trout through migratory corridors (Rieman and McIntyre 1993, Montana Bull Trout Scientific Group (MBTSG) 1998).

While stream habitats have received more attention, lakes and reservoirs also figure prominently in meeting the life cycle requirements of bull trout. For adfluvial bull trout populations, lakes and reservoirs provide an important component of the core foraging, migrating, and overwintering habitat, and are integral to maintaining the adfluvial life history strategy that is commonly exhibited by bull trout. When juvenile bull trout emigrate downstream to a lake or reservoir from the spawning and rearing streams in the headwaters, they enter a more productive lentic environment that allows them to achieve rapid growth and energy storage. Typically, juvenile bull trout are at least two years old and 100 mm (4 inches) or longer upon entry to the lake environment. For the next 2–4 years they grow rapidly. At a typical age of five years or older, when total length normally exceeds 400 mm (16 inches), they reach sexual maturity. The lake environment provides the necessary attributes of food, space, and shelter for the subadult fish to prepare for the rigors of migratory passage upstream to the natal spawning area, a migration that may last as long as six months and cover distances as much as 250 km (155 mi) upriver.

When adfluvial bull trout reach adulthood and complete the spawning migration, mating in the fall in the stream where they originated, they usually return downstream to the lake very rapidly. Adult adfluvial bull trout may live as long as 20 years and can complete multiple migrations between the lake and the spawning stream. In many populations, alternate year spawning is the normal pattern, and adult fish may require as much as 20 months in the lake or reservoir habitat to facilitate adequate energy storage and gamete development before they return to spawn again.

In comparison to streams, lake and reservoir environments are relatively more secure from catastrophic natural events. They provide a sanctuary for bull trout, allowing them to quickly rebound from temporary adverse conditions in the spawning and rearing habitat. For example, if a major wildfire burns a drainage and eliminates most or all aquatic life (a rare occurrence), bull trout subadults and adults that survive

in the lake may return the following year to repopulate the system. In this way, lakes and reservoirs provide an important adaptive element of the adfluvial life history strategy.

The construction of reservoirs may have had adverse effects to bull trout, but some reservoirs also have provided unintended benefits. For example, the basin of Hungry Horse Reservoir has functioned adequately for fifty years as a surrogate home for stranded Flathead Lake bull trout trapped upstream of the dam when it was completed. While this is an artificial impoundment, the habitat the reservoir provides and the presence of an enhanced prey base of native minnows, suckers, and whitefish within the reservoir sustain a large adfluvial bull trout population. Additionally, while barriers to migration are often viewed as a negative consequence of dams, the connectivity barrier at Hungry Horse Dam has also served an important, albeit unintended, function in restricting the proliferation of nonnative *Salvelinus* species (brook trout and lake trout) from downstream areas upstream above the dam.

In addition to considering various habitat features and other factors that relate to individuals and populations of bull trout in relatively localized areas, attention also is being given to broader scale considerations of the distribution and abundance of bull trout, based on applying the theories and principles of conservation biology and metapopulation dynamics (Rieman and McIntyre 1993; Kanda 1998). Conservation biology is a scientific discipline that has emerged from a basis in several other sciences (e.g., population genetics, demography, biogeography, and community ecology) and addresses applied problems in conservation, especially diversity, scarcity, and extinction (Noss and Cooperrider 1994). A metapopulation is an interacting network of local subpopulations, in which individual demographics units are connected through dispersal and migration with varying frequencies of gene flow among them (Meefe and Carroll 1994). Metapopulation models are used in conservation biology to describe the structure and dynamics of populations that occur in different locations across a landscape and to identify subpopulations, habitat patches, and links between habitat patches that are of crucial importance to maintaining the overall metapopulation. Under conditions where metapopulation dynamics are functioning, providing an appropriate amount and spatial distribution of habitat to support metapopulations can be crucial to

reducing the risk of extinction of a species or population because even though local subpopulations may become extinct, they can be replaced (reestablished) by individuals from other local subpopulations or populations.

One of the key factors influencing the distribution and abundance of bull trout is the extent to which habitat patches in sufficient number and proximity provide for the natural reestablishment of local subpopulations. The rate at which reestablishment might occur is another key factor. Because bull trout exhibit strong homing fidelity when spawning and their rate of straying appears to be low, natural reestablishment of extinct local subpopulations may take a very long time even if habitat connectivity is retained.

Genetic diversity in bull trout is another issue of concern, and is related to the distribution and abundance of bull trout habitat and populations. Habitat alteration, primarily through construction of impoundments, dams, and water diversions, has substantially increased habitat fragmentation, eliminated migratory corridors, and isolated bull trout, often in the headwaters of tributaries (Rieman *et al.* 1997). In their review of the status of bull trout populations in Oregon, Ratliff and Howell (1992) described various factors that have resulted in bull trout populations becoming largely fragmented and isolated in the upper reaches of drainages, with most of the remaining populations being the resident form of bull trout, rather than the migratory forms that would have used the lower stream reaches that now have been altered by various types of developments or by cumulative impacts from upstream areas. Ratliff and Howell specifically noted that habitat fragmentation and the resulting isolation of populations can exacerbate problems facing declining populations, including reduced genetic variability that can lead to inbreeding depression, further lowering productivity and increasing the risk of extinction. They described the loss of fluvial and adfluvial life histories as a major concern for bull trout conservation, noting that these larger fish have greater reproductive potential because of their increased fecundity and also are less likely to hybridize with the smaller brook trout that often co-occur in spawning areas.

Genetic diversity enhances long-term survival of a species by increasing the likelihood that the species is able to survive changing environmental conditions. For instance, a local

population of bull trout may contain individuals with genes that enhance their ability to survive in the prevailing local environmental conditions (Leary *et al.* 1993; Spruell *et al.* 1999; Hard 1995). Individuals with a different genetic complement may persist in the local population in much lower abundance than those with locally adapted genes. However, if environmental conditions change due to natural processes or human activities, the survival of individuals adapted to previous conditions may no longer be enhanced. Individuals with the alternative genetic complement may increase in relative abundance if their survival is enhanced in the altered environmental conditions. Moreover, considerable genetic diversity may be distributed among local populations so that changing environmental conditions could lead to extirpation of a local population of bull trout, but the area could be repopulated by individuals from another local population that possess genes whose survival is enhanced under the new conditions. If the overall genetic diversity distributed across local populations of bull trout is reduced by the loss of local populations, the ability of the species to respond to changing conditions is likewise reduced, leading to a higher likelihood of extinction (Rieman and McIntyre 1993; Leary *et al.* 1993; Spruell *et al.* 1999; Hard 1995; Rieman and Allendorf 2001).

Bull trout populations contain low levels of genetic variability within them compared to relatively high levels of divergence and variability exhibited among populations (Leary *et al.* 1993; Leary and Allendorf 1997; Spruell *et al.* 1999; Taylor *et al.* 1999). For example, Leary *et al.* (1993) state that “\* \* \* a relatively high amount (40%) of the total genetic variation within the Columbia River drainage is \* \* \* due to genetic differences among samples. This is in striking contrast to the results \* \* \* with rainbow trout and \* \* \* with chinook salmon \* \* \* where only 10% of the total genetic variation was due to genetic differences among populations sampled from a geographical area similar to that of our samples of bull trout.” This type of genetic structuring indicates limited gene flow among bull trout populations, which may encourage local adaptation within individual populations (Spruell *et al.* 1999; Healey and Prince 1995; Hard 1995; Rieman and McIntyre 1993).

Current information on the distribution of genetic diversity within and among bull trout populations is based on molecular characteristics of individual genes. While such analyses are extremely useful, they are not likely

to detect variability in adaptive traits that are dependent on both the genotype (molecular genetic characteristics) and phenotype (observable expression, which may be influenced by genotype, the environment, and interactions of both) of an organism (Hard 1995). We may not be able to directly detect or measure the relations among genetic diversity, phenotypes, and adaptive traits of a population. Although the loss of a few populations may have little effect on overall genetic diversity, without conserving suites of populations and their habitats (*i.e.*, core areas and, on a larger scale, recovery units), the loss of phenotypic diversity may be substantial, with negative consequences to the viability of the species (Healey and Prince 1995; Hard 1995; Rieman and McIntyre 1993; Nelson *et al.* 2002; MBTSG 1998; Taylor *et al.* 1999). Therefore, the maintenance of phenotypic variability and plasticity for adaptive traits (*e.g.*, variability in body size and form, foraging efficiency, and timing of migrations, spawning, and maturation) is achieved by conserving populations, their habitats, and opportunities for the species to take advantage of habitat diversity (Healey and Prince 1995; Hard 1995).

Studies to understand the relations among genotypic, phenotypic, and environmental variability relative to bull trout have been conducted. For example, Spruell *et al.* (1999) found that bull trout at five different spawning sites within a tributary drainage of Lake Pend Oreille, Idaho, were differentiated based on genetic analyses (microsatellite DNA), indicating fidelity to spawning sites and relatively low rates of gene flow among sites. Genetic isolation of bull trout and environmental variability of tributary streams in the Lake Pend Oreille system implies that bull trout may be uniquely adapted within and among spawning tributaries in the system. Because bull trout in the coterminous United States are distributed over a wide geographic area consisting of various environmental conditions, and because they exhibit considerable genetic differentiation among populations, the occurrence of local adaptation is expected to be extensive. Some readily observable examples of differentiation between populations include external morphology and behavior (*e.g.*, size and coloration of individuals; timing of spawning and migratory forays). Thus, conserving many populations across the range of the species is crucial to adequately protect genetic and phenotypic diversity of bull trout (Hard 1995; Healey and Prince 1995; Taylor *et*

*al.* 1999; Rieman and McIntyre 1993; Spruell *et al.* 1999; Leary *et al.* 1993; Rieman and Allendorf 2001). Changes in habitats and prevailing environmental conditions are increasingly likely to result in extinction of bull trout if genetic and phenotypic diversity is lost.

Scientific evidence also supports the position that maintaining multiple bull trout populations distributed and interconnected throughout their current range will provide a mechanism for reducing the risk of extinction from stochastic events (Rieman and McIntyre 1993; Rieman and Allendorf 2001; Spruell *et al.* 1999; Healey and Prince 1995; Hard 1995). Bull trout have a broad distribution and are relatively secure in some parts of their range. However, declines and local extinctions have occurred. Current patterns in the distribution and other empirical evidence, when interpreted in view of emerging conservation theory, indicate that further declines and local extinctions are likely (Rieman *et al.* 1997; Spruell *et al.* 2002; Rieman and Allendorf 2001; Dunham and Rieman 1999).

The range of the bull trout has decreased in comparison to the known and estimated historic range in the conterminous United States. Bull trout are now extinct in northern California. Elsewhere, populations have been much reduced, fragmented, or eliminated from the main stems of many large river systems.

Historical records for the Klamath River basin suggest that bull trout in this distinct population segment were once widely distributed and exhibited diverse life-history traits in that part of their range (Ziller 1992). Currently, however, bull trout in this basin are almost entirely nonmigratory, resident fish that are confined to headwater streams (Goetz 1989). There currently are nine naturally occurring, nonmigratory populations, and one remnant fluvial population, that still occur in the Upper Klamath Lake, Sprague River, and Sycan Marsh watersheds in Oregon. They represent an estimated 21 percent of the estimated historic range of bull trout in the Klamath River basin (Quigley and Arbelbide 1997). These known remaining local populations are considered to be quite low in abundance; they are highly isolated from one another as a result of natural and human-caused conditions and are at substantial risk of extirpation due to natural disturbance cycles, random events, and other risk factors (Light *et al.* 1996).

The Columbia River population segment includes bull trout residing in

portions of Oregon, Washington, Idaho, and Montana. Bull trout are estimated to have once occupied about 60 percent of the Columbia River basin; they presently are known or predicted to occur in less than half (approximately 45 percent) of watersheds in the historical range (Quigley and Arbelbide 1997), which amounts to approximately 27 percent of the basin. The principal river systems and lakes/reservoirs in the Columbia River basin where bull trout currently are known to occur are as follows: The Willamette River system (in upper tributaries only), Lewis River, Klickitat River, Hood River, Deschutes River, Metolius River, Lake Billy Chinook, Odell Lake, John Day River, Sycan River, Sprague River, Umatilla River, Walla Walla River, Yakima River, Columbia River, Snake River, Tucannon River, Grande Ronde River, Clearwater River, Asotin Creek, Imnaha River, Salmon River, Little Lost River, Malheur River, Powder River, Payette River, Boise River, Weiser River, Wenatchee River, Entiat River, Methow River, Rimrock Lake, Spokane River, Pend Oreille River, Flathead River, Swan River, Clark Fork River, Kootenai River, Bitterroot River, Blackfoot River, Hungry Horse Reservoir, Swan Lake, and Flathead Lake (Bull Trout Draft Recovery Plan (Draft Recovery Plan), USFWS 2002).

Although still relatively widely distributed in the Columbia River basin, bull trout occur in low numbers in many areas, and populations are considered depressed or declining across much of their range (Ratliff and Howell 1992; Schill 1992; Thomas 1992; Buchanan *et al.* 1997; Rieman *et al.* 1997, Quigley and Arbelbide 1997). Another evaluation of the distribution and status of bull trout within the Columbia River and Klamath River basins indicates bull trout are present in about 36 percent of the subwatersheds in their potential range and are estimated to have strong populations in only 6 to 12 percent of the potential range, with most populations considered to be depressed in numbers (Rieman *et al.* 1997).

The range of the bull trout is likely to have contracted and expanded over time in relation to natural climate changes; the distribution of the species probably was likely patchy even in pristine environments. However, regardless of uncertainty about the exact historical range, the number and size of historical populations, and the role of natural factors in the status of the species, there is widespread agreement in scientific literature that many factors related to human activities have impacted bull trout and continue to pose significant

risks of further extirpations of local populations. Among the many factors that contributed to the decline of bull trout in the Columbia River and Klamath River basins, those which appear to be particularly significant are as follows: (1) Fragmentation and isolation of local populations due to the proliferation of dams and water diversions that have eliminated habitat, altered water flow and temperature regimes, and impeded migratory movements (Rieman and McIntyre 1993; Dunham and Rieman 1999); (2) degradation of spawning and rearing habitat in upper watershed areas, particularly alterations in sedimentation rates and water temperature, resulting from past forest and rangeland management practices and intensive development of roads (Fraley and Shepard 1989; Montana Bull Trout Scientific Group (MBTSG) 1998); and (3) the introduction and spread of nonnative species, particularly brook trout (*Salvelinus fontinalis*) and lake trout (*Salvelinus namaycush*), which compete with bull trout for limited resources and, in the case of brook trout, hybridize with bull trout (Ratliff and Howell 1992; Leary *et al.* 1993).

The ramifications and effects of isolation and habitat fragmentation on various aspects of the life cycle of bull trout are highlighted in much of the scientific literature on this species. Isolation of populations and habitat fragmentation resulting from barriers to migration have negatively impacted affected bull trout in several ways that have important implications for the conservation of the species. These include: (1) Reducing geographical distribution (Rieman and McIntyre 1993, MBTSG 1998); (2) increasing the probability of losing individual local populations (Rieman and McIntyre 1993, Rieman *et al.* 1995, MBTSG 1998, Dunham and Rieman 1999, Nelson *et al.* 2002); (3) increasing the probability of hybridization with introduced brook trout (Rieman and McIntyre 1993); (4) reducing the potential for movements that are necessary to meet developmental, foraging, and seasonal habitat requirements (Rieman and McIntyre 1993, MBTSG 1998); and (5) reducing reproductive capability by eliminating the larger, more fecund migratory form of bull trout from many subpopulations (Rieman and McIntyre 1993, MBTSG 1998).

Introduced brook trout threaten bull trout through competition, hybridization, and possibly predation (Leary *et al.* 1993). Brook trout appear to be better adapted to degraded habitat than bull trout, and brook trout are more tolerant of high water temperatures.

Hybridization between brook trout and bull trout has been reported in Montana, Oregon, Washington, and Idaho. In addition, brook trout mature at an earlier age and have a higher reproductive rate than bull trout. This difference appears to favor brook trout over bull trout when they occur together, often leading to the decline or extirpation of bull trout (Leary *et al.* 1993; MBTSG 1998). Nonnative lake trout also negatively affect bull trout. A study of 34 lakes in Montana, Alberta, and British Columbia found that lake trout reduce the distribution and abundance of migratory bull trout in mountain lakes and concluded that lacustrine populations of bull trout usually cannot be maintained if lake trout are introduced (Donald and Alger 1993).

### Previous Federal Action

On September 18, 1985, we published an animal Notice of Review in the **Federal Register** (50 FR 37958) designating the bull trout as a category 2 candidate for listing in the coterminous United States. Under the definitions we used at that time, category 2 taxa were those for which we had information indicating that proposing to list was possibly appropriate, but for which persuasive data on biological vulnerability and threat were not currently available to support a proposed rule. We published updated Notices of Review on January 6, 1989 (54 FR 554), and November 21, 1991 (56 FR 58804), reconfirming the bull trout category 2 status. On November 15, 1994 (59 FR 58982), we elevated bull trout in the coterminous United States to a category 1 candidate for Federal listing. Category 1 taxa were those for which we had on file substantial information on biological vulnerability and threats to support preparation of listing proposals.

On June 13, 1997, we published in the **Federal Register** (62 FR 32268) a proposed rule to list the Klamath River population segment of bull trout as an endangered species, and the Columbia River population segment of bull trout as a threatened species. On June 10, 1998, we published a final rule in the **Federal Register** (63 FR 31647) determining the Klamath River and Columbia River population segments of bull trout to have threatened status under the Act. At the time of listing, we made the finding that critical habitat was not determinable for these populations because their habitat needs were not sufficiently well known (63 FR 31647). (For a further summary of previous Federal action, see 64 FR 58916.)

On January 26, 2001, the Alliance for the Wild Rockies, Inc. and Friends of the Wild Swan, Inc. filed a lawsuit in the U.S. District Court of Oregon challenging our failure to designate critical habitat for bull trout. We entered into a settlement agreement on January 14, 2002, which stipulated that we would make critical habitat determinations for the five population segments of bull trout (Civil Case No: CV 01-127-JO). For the Klamath River and Columbia River populations, we agreed to submit for publication in the **Federal Register** a proposed rule for critical habitat designation by October 1, 2002, and a final rule by October 1, 2003. A subsequent agreement resulted in extending the date for the publication of the proposed rule to November 12, 2002.

### Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species, and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" is defined by the Act as the use of all methods and procedures which are necessary to bring any endangered or a threatened species to the point at which the measures provided pursuant to the Act are no longer necessary.

Critical habitat receives protection under section 7(a)(2) of the Act through the requirement that Federal agencies shall, in consultation with us, ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. Section 7(a)(4) requires Federal agencies to confer with us on any agency action which is likely to result in the destruction or adverse modification of proposed critical habitat. The term "destruction or adverse modification" is defined at 50 CFR 402.02 as a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.

Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because the consultation requirements under section 7 of the Act do not apply to activities on private or other non-Federal lands unless those activities involve a Federal nexus, critical habitat designation on such lands would not afford any additional protections under the Act.

Critical habitat also provides nonregulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery, and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features essential for the conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified, by helping people to avoid causing accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat must be "essential to the conservation of the species." Critical habitat designations identify, to the extent known, and using the best scientific data available, habitat areas that provide at least one of the physical or biological features essential to the conservation of the species (primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act specifies that except in those circumstances determined by the Secretary of the Interior (Secretary), critical habitat shall not include the entire geographical areas which can be occupied by the listed species. Regulations at 50 CFR 424.12(e) also state that, "The Secretary shall designate as critical habitat areas outside the geographical area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species."

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation if we determine that the benefits of such exclusion outweigh the benefits of including the areas within critical habitat, unless we determine, based on

the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species.

Section 4 of the Act requires that we designate critical habitat based on what we know at the time of designation. We recognize that habitat is often dynamic, undergoing naturally-occurring changes that can alter its importance to, and use by, a listed species. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas that support newly discovered populations in the future, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act, to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, and to the section 9 prohibitions, as determined on the basis of the best available information at the time of the action. Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate critical habitat concurrently with listing a species. In our final listing rule (63 FR 31647), we concluded that the designation of critical habitat for the bull trout was not determinable at that time, explaining that the biological needs of bull trout in the Klamath River and Columbia River population segments were not sufficiently well known to permit identification of areas as critical habitat. Further, the extent of habitat required and specific management measures needed for recovery of these fish had not been identified.

Shortly after the species was listed in 1998, we initiated development of a recovery plan for bull trout and convened 27 individual Recovery Unit Teams throughout five States to begin gathering information on the status and conservation needs of the species. These

teams were composed of experts from the fields of biology, other scientific disciplines such as hydrology and forestry, resource users, and other stakeholders with interest in and knowledge of bull trout and the habitats they depend on for survival. The recovery planning process in general, and the individual Recovery Unit Teams in particular, generated a considerable body of new information on the biological needs of bull trout, the extent of habitat required, and specific management needs. There also have been new scientific publications, and additional information has become available from various State and Federal agencies since the 1998 listing action. As a result, we now find that sufficient information exists to determine critical habitat for the Klamath River and Columbia River bull trout population segments.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that the decisions made by the Service represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, unpublished materials, and expert opinions.

## Methods

As required by the Act and regulations at 50 CFR 424.12, we used the best scientific data available to determine critical habitat, giving consideration to those physical and biological features that are essential to the conservation of the bull trout. As described at 50 CFR 424.12(b), such requirements include, but are not limited to, the following: (1) Space for individual and population growth and for normal behavior; (2) Food, water, or other nutritional or physiological requirements; (3) Cover or shelter; (4) Sites for breeding, reproduction, rearing of offspring; and generally; (5) Habitats that are protected from disturbance or are representative of the historic

geographical and ecological distributions of a species.

In proposing critical habitat, we reviewed the overall approaches to the conservation of the species undertaken by local, State, and Federal agencies; Tribal governments; and private individuals and organizations since the species was listed in 1998. We relied heavily on information developed by the bull trout Recovery Unit Teams, which were comprised of Federal, State, Tribal, and private biologists, as well as experts from other scientific disciplines such as hydrology and forestry, resource users, and other stakeholders with an interest in bull trout and the habitats they depend on for survival. We reviewed available information concerning bull trout habitat use and preferences, habitat conditions, threats, limiting factors, population demographics, and the known locations, distribution and abundances of bull trout.

During our evaluation of information, we also took into account the relatively low probability of detection of bull trout in traditional fish sampling and survey efforts, as well as the limited extent of such efforts across the range of bull trout. Because of their varied life history strategies, nocturnal habits, and low population densities in many areas, the detectability of bull trout in a given area is highly variable (Rieman and McIntyre 1993). Furthermore, much of the current information on bull trout presence is the product of informal surveys or sampling conducted for other species or other purposes. The primary limitations of informal surveys are that they provide no estimate of certainty (*i.e.*, a measure of the probability of detection), and that they may be inadequate for determining parameters such as the densities and distribution of the population. (The need for a statistically sound bull trout survey protocol has been addressed only recently through the development, by the American Fisheries Society, of a peer-reviewed protocol for determining presence/absence, and potential habitat suitability for juvenile and resident bull trout (Peterson *et al.* 2002).) Consequently, with some exceptions (*e.g.*, areas of Montana where bull trout surveys have been consistently conducted for a decade or more), a lack of bull trout detections does not provide definitive evidence of their absence in a particular stream, lake, or river. Accordingly, we used information gathered during the bull trout recovery planning process, as supplemented by even more recent information developed by State agencies, Tribes, the U.S. Forest Service (USFS), and other entities, in the development of our critical habitat

designation proposal. Data concerning habitat conditions or status of primary constituent elements were used when available. To address areas where data gaps exist, we solicited expert opinions from knowledgeable fisheries biologists in the local area.

Important considerations in selecting areas for critical habitat designation include factors specific to each river system, such as size (*e.g.*, stream order), gradient, channel morphology, connectivity to other aquatic habitats, and habitat complexity and diversity, as well as range-wide recovery considerations. This effort was especially assisted by the recovery strategy described in the Draft Recovery Plan (USFWS 2002). We took into account that preferred habitat for bull trout ranges from small headwater streams that are used largely for spawning and rearing, to downstream, mainstem portions of river networks that are used for rearing, foraging, overwintering, and migration.

Our method included consideration of information regarding habitat essential to maintaining the migratory life history forms of bull trout, in light of the repeated emphasis about the importance of such habitat in the scientific literature (Rieman and McIntyre 1993; Hard 1995; Healey and Prince 1995; Rieman *et al.* 1995; MBTSG 1998; Dunham and Rieman 1999; Nelson *et al.* 2002). As explained above (see the Background section), habitat for movement upstream and downstream is important for all life history forms for spawning, foraging, growth, access to rearing and overwintering areas, or thermal refugia (*e.g.*, spring-fed streams in late summer), avoidance of extreme environmental conditions, and other normal behavior. Successful migration requires biologically, physically, and chemically unobstructed routes for movement of individuals. Therefore, our method included considering information regarding habitat that is essential for movement into and out of larger rivers, because of the importance of such areas to the fluvial form of bull trout. We similarly identified habitat that is essential for movement between streams and lakes by adfluvial forms.

Migratory corridors also are important for movement between populations (*e.g.* Fraley and Sehaphard 1989; Rieman and McIntyre 1993, Rieman *et al.* 1995, Dunham and Rieman 1999). Thus, in addition to considering areas important for migration within populations, our method also included considering information regarding migration corridors necessary to allow for genetic exchange between local populations. Corridors that provide for such



movements can support eventual recolonization of unoccupied areas or otherwise play a significant role in maintaining genetic diversity and metapopulation viability. (See Background section, above, for details.) Because these factors are important in identifying areas that are essential to the conservation of bull trout, our method included consideration of the various roles that migratory corridors have for bull trout.

### Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base our proposal on the best scientific data available, and to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations or protection. These physical and biological features include, but are not limited to: space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species. All areas proposed as critical habitat for bull trout are within the historic geographic range of the species and contain one or more of these physical or biological features essential to the conservation of the species. The regulations also require that we include a list of known primary constituent elements with the critical habitat description. As described in the regulations, the primary constituent elements may include, but are not limited to, features such as spawning sites, feeding sites, and water quality or quantity. Following is a brief summary of information we considered in our identification of primary constituent elements. Additional and more detailed information is available in the administrative record for the proposed rule.

We determined the primary constituent elements for bull trout from studies of their habitat requirements, life-history characteristics, and population biology, as outlined above. These primary constituent elements are:

(1) Permanent water having low levels of contaminants such that normal reproduction, growth and survival are not inhibited;

(2) Water temperatures ranging from 2 to 15 °C (36 to 59 °F), with adequate thermal refugia available for

temperatures at the upper end of this range. Specific temperatures within this range will vary depending on bull trout life history stage and form, geography, elevation, diurnal and seasonal variation, shade, such as that provided by riparian habitat, and local groundwater influence;

(3) Complex stream channels with features such as woody debris, side channels, pools, and undercut banks to provide a variety of depths, velocities, and instream structures;

(4) Substrates of sufficient amount, size, and composition to ensure success of egg and embryo overwinter survival, fry emergence, and young-of-the-year and juvenile survival. A minimal amount of fine substrate less than 0.63 cm (0.25 in) in diameter and minimal substrate embeddedness are characteristic of these conditions;

(5) A natural hydrograph, including peak, high, low, and base flows within historic ranges or, if regulated, a hydrograph that demonstrates the ability to support bull trout populations;

(6) Springs, seeps, groundwater sources, and subsurface water connectivity to contribute to water quality and quantity;

(7) Migratory corridors with minimal physical, biological, or chemical barriers between spawning, rearing, overwintering, and foraging habitats, including intermittent or seasonal barriers induced by high water temperatures or low flows;

(8) An abundant food base including terrestrial organisms of riparian origin, aquatic macroinvertebrates, and forage fish; and

(9) Few or no predatory, interbreeding, or competitive nonnative species present.

The areas proposed as critical habitat for the Klamath River and Columbia River Basin DPSs of bull trout are designed to incorporate what is essential for their conservation. An area need not include all nine of the primary constituent elements to qualify for designation as critical habitat.

### Criteria Used To Identify Critical Habitat

The Draft Recovery Plan (USFWS 2002) identifies the specific recovery needs of the species and provides guidance for identifying areas that warrant critical habitat designation. As described below, this Draft Recovery Plan was used as the principal basis for identifying the critical habitat in this proposed designation. Use of the Draft Recovery Plan for this purpose raises significant issues about the scope and impact of this proposed designation. In particular, areas included in this

proposal may not meet the statutory definition of critical habitat insofar as they may not be essential to the conservation of bull trout. We will re-evaluate the proposed rule based on public comment, peer review of the proposed rule and the Draft Recovery Plan, the economic analysis of the proposed rule and the public comments on that analysis, and other available information, to ensure that the designation accurately reflects habitat that is essential to the conservation of the species.

The draft recovery strategy focuses primarily on the maintenance (and, where needed, expansion) of existing local populations by: (1) Protecting sufficient amounts of spawning and rearing habitat in upper watershed areas; (2) providing suitable habitat conditions in downstream rivers and lakes to provide foraging and overwintering habitat for fluvial and adfluvial fish; and (3) sustaining (and in some cases reestablishing) movement corridors to maintain migratory routes and the potential for gene flow between local populations by maintaining habitat conditions that allow for fish passage.

Critical habitat units are patterned after recovery units identified in the Draft Recovery Plan (USFWS 2002) for the Klamath River and Columbia River population segments. Using the guidance from that plan, we identified habitat areas needed for the survival and recovery of bull trout. To be included as critical habitat, an area had to provide one or more of the following three functions: (1) Spawning, rearing, foraging, or overwintering habitat to support existing bull trout local populations; (2) movement corridors necessary for maintaining migratory life-history forms; and/or (3) suitable and historically occupied habitat that is essential for recovering existing local populations that have declined, or that is needed to reestablish local populations required for recovery.

Our proposal includes approximately 4,074 km (2,531 mi) of stream reaches and 12,176 ha (30,075 ac) of lake and reservoir surface area habitat determined to be essential to the conservation of the bull trout, but currently not known to be occupied. Although these specific areas are not known to be occupied, they are within the geographical area occupied by bull trout occupy. Areas with low levels of bull trout occupancy or where presence of the species is undetermined were included when they provided connectivity between areas of high-quality habitat, served as important migration corridors for fluvial or adfluvial fish, or were identified in the



Draft Recovery Plan (USFWS 2002) as necessary for local population expansion or reestablishment in order to achieve recovery, so that delisting can occur. Restoration of reproducing bull trout populations to additional portions of their historical range would significantly reduce the likelihood of extinction due to natural or human-caused factors that might otherwise further reduce population size and distribution. Thus, an integral component of the Draft Recovery Plan (USFWS 2002) is the selective reestablishment of secure, self-sustaining populations in certain areas where the species has apparently, but not necessarily conclusively, been extirpated. In this regard, we also note that some habitat areas that would not be considered essential if they were geographically isolated are, in fact, essential to the conservation of the species when situated in locations where they facilitate movement between local populations or otherwise play a significant role in maintaining metapopulation viability (*e.g.*, by providing sources of immigrants to recolonize adjacent habitat patches following periodic extirpation events) (Dunham and Rieman 1999). In addition, populations on the periphery of the species' range, or in atypical environments, are important for maintaining the genetic diversity of the species and could prove essential to the ability of the species to adapt to rapidly changing climatic and environmental conditions (Leary *et al.* 1993; Hard 1995).

A brief discussion of each area proposed for designation is provided in the critical habitat unit descriptions (below). Additional detailed documentation concerning the essential nature of these areas is contained in our administrative record.

Proposed critical habitat for bull trout was delineated using multiple sources including: The StreamNet GIS (Geographic Information System) database for Idaho, Oregon, Washington, and Montana; and State databases of bull trout distribution.

### Managed Lands

As part of our process of developing this critical habitat proposal, we evaluated existing management plans to determine whether they provide sufficient protection and management for the bull trout and its habitat such that there is no need for additional special management considerations or protection of areas that otherwise would qualify as critical habitat. Section 3(5)(A)(i) of the Act defines critical habitat as areas on which are found

those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection. Adequate special management or protection is provided by a legally operative plan that addresses the maintenance and improvement of essential habitat elements and that provides for the long-term conservation of the species. We consider a plan adequate when it: (1) Provides a conservation benefit to the species (*i.e.*, the plan must maintain or provide for an increase in the species' population, or the enhancement or restoration of its habitat within the area covered by the plan); (2) provides assurances that the management plan will be implemented (*i.e.*, those responsible for implementing the plan are capable of accomplishing the objectives, have an implementation schedule, and/or adequate funding for the management plan); and (3) provides assurances the conservation plan will be effective (*i.e.*, it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives). If an area provides physical and biological features essential to the conservation of the species, and also is covered by a plan that meets these criteria, then such an area does not constitute critical habitat as defined by the Act because the primary constituent elements found there are not in need of special management.

### Federal Public Lands (USFS and Bureau of Land Management)

Within the range of bull trout, the USFS and Bureau of Land Management (BLM) prepare land management plans which generally guide activities on the National Forests and BLM Districts. These plans provide some level of conservation benefit to species and the habitat they are known to occupy. However, current management goals are not sufficient to address areas of unknown occupancy which are proposed as critical habitat because we believe they are essential to conservation of the species.

Federal land management agencies routinely engage in land exchanges with non-Federal entities. These exchanges are often advantageous to both parties by providing, for example, harvestable timber for a private timber company and a consolidation of land holdings that will contribute to efficient future management by the Federal agency. Such exchanges complicate potential critical habitat exclusions based on existing management plans.

USFS Land and Resource Management Plans (LRMPs) and BLM Resource Management Plans (RMPs), as amended by the Interim Strategy for Managing Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, Western Montana, and Portions of Nevada (INFISH), and the Interim Strategy for Managing Anadromous Fish-Producing Watersheds in Western Oregon and Washington, Idaho, and Portions of California (PACFISH), are fluid documents that may change, or not change as anticipated, as management emphasis and direction changes. For example: (1) PACFISH and INFISH were considered interim for a period of 2 years when they were created in 1998, yet they still are in place in 2002; (2) three National Forests in Idaho are currently engaged in informal consultation with the Service on revisions to their LRMPs with the vision of dropping or modifying PACFISH/INFISH requirements. We are unsure at this point as to the degree of aquatic protections that will be provided under the new plans; and (3) the Aquatic Conservation Strategy and other components of the Northwest Forest Plan (NWFP) contain aspects which are not always fully agreed upon by Federal agencies charged with implementation of the plan. For this reason, as well as to incorporate new information, the NWFP is managed adaptively to respond to new information and, as such, we are unsure as to the specific details of future management direction. Further, LRMPs and RMPs (including the NWFP) are general and programmatic in nature. All of the Federal agencies understand that more specific consultation at the site-specific level is required to determine project effects and meet the requirements of section 7(a)(2) of the Act. Therefore, the current existence and substance of these Federal land management plans do not provide assurances of their future implementation, or that specific project implementation in the future will reflect a comparable level of conservation benefits to bull trout.

Because of these circumstances, we cannot, at this time, find that management on these lands under Federal jurisdiction is adequate to preclude a proposed designation of critical habitat. Therefore, we have included areas within these Federal jurisdictions as part of the critical habitat proposal, and are seeking further information, through the public comment process, as to whether these areas should be retained or excluded from designation in the final rule (see Public Comments Solicited section).

### **Congressionally Designated Wilderness**

Wilderness areas exist because of a Congressional mandate that began with passage of the Wilderness Act in 1964. In partnership with the public, wilderness managers have a responsibility to preserve an enduring resource of wilderness, where natural processes are allowed to operate freely. Non-commercial hunting, fishing, and trapping are allowed in most Bureau of Land Management, Fish and Wildlife Service, and Forest Service wilderness areas, but not those managed by the National Park Service. States are responsible for management of wildlife and fish, working together with the Federal agency land managers. Wildlife species may be introduced and fish species stocked in order to perpetuate or recover a threatened or endangered species, or to restore a native species that has been eliminated or reduced by human influence. Exotic species may not be stocked. Habitat may be manipulated only when it is necessary to correct conditions resulting from human influence or to protect threatened or endangered species. Research and management surveys are permitted if done in a manner compatible with the preservation of the wilderness resource.

Where previously established, livestock grazing is permitted to continue in wilderness, subject to grazing and other resource management requirements. Permittees are required to maintain range improvements necessary to the livestock operation or the protection of the range, such as fences and watering facilities. The use of motorized equipment is permitted where it occurred prior to the establishment of wilderness. Range improvements such as fences and watering holes may be made, when necessary to protect wilderness values and manage the range resource. Prescribed burning, noxious weed control, seeding, irrigation, fertilization, and liming are allowed where each activity was practiced prior to wilderness designation, when absolutely necessary for the livestock grazing operation, and where there would be no serious adverse impacts on wilderness values. Horses and packstock used by commercial outfitters and guides and private individuals are grazed under permit. Feed must be packed in when forage is inadequate, and each wilderness may set regulations on tethering of horses, party size limits, and use of native feed and pellets. Wild horses and burros are considered part of the natural system, where established at the time of designation.

Effective January 1, 1984, the Wilderness Act withdrew minerals within lands designated as wilderness from appropriation under the mining and mineral leasing laws, subject to valid existing rights. Holders of valid mineral leases retain the rights granted by the terms and conditions of the specific leases. Holders of valid mining claims are allowed to conduct operations necessary for the development, production, and processing of the mineral resource. Mechanized equipment, motorized access, and utility corridors may be used. However, these activities and the reclamation of all disturbed lands must minimize the impact on the surrounding wilderness character. Prior to designation as wilderness, mining claims may be made on public lands administered by the Bureau of Land Management. Mining operations may continue after designation, subject to strict regulation to protect wilderness characteristics.

Dams and water development structures in wilderness, other than those necessary for range and wildlife, can only be authorized by the President. However, existing reservoirs, ditches, water catchments, and related facilities for the control or use of water can be maintained or reconstructed if they meet a public need or are part of a valid existing right. Motorized equipment and mechanical transportation for maintenance of water development structure is not allowed unless practiced before the area was designated wilderness. Watershed restoration is permitted only where human activities have caused soil deterioration or other loss of wilderness values, where watershed conditions could cause unacceptable environmental impacts or threaten life or property outside the wilderness, and where natural revegetation is insufficient.

Although wilderness areas generally provide for management complementary with the conservation needs of bull trout, the provisions for mining, water development, and grazing relative to pre-existing claims and usage, and their effects on future site-specific actions that may occur, is not well understood. Because of this uncertainty, we cannot, at this time, determine the effectiveness of wilderness management on bull trout. Therefore, we have included areas within wilderness as part of the critical habitat proposal. We are seeking further information, through the public comment process, as to whether these areas should be retained or excluded from designation in the final rule (see Public Comments Solicited section).

### **Lands Covered Under Existing Habitat Conservation Plans (HCPs)**

Section 10(a)(1)(B) of the Act authorizes the Service to issue to non-Federal entities a permit for the incidental take of endangered and threatened species. This permit allows a non-Federal landowner to proceed with an activity that is legal in all other respects, but that results in the incidental taking of a listed species (*i.e.*, take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). The Act specifies that an application for an incidental take permit must be accompanied by a conservation plan, and specifies the content of such a plan. The purpose of such a habitat conservation plan, or HCP, is to describe and ensure that the effects of the permitted action on covered species are adequately minimized and mitigated and that the action does not appreciably reduce the survival and recovery of the species.

Within the area covered by Klamath River DPS, there are no HCPs involving bull trout. Within the range of the Columbia River population segment of bull trout, the Service has approved HCPs involving the Plum Creek Timber Company and the Washington Department of Natural Resources (WDNR). The Plum Creek Native Fish, Plum Creek I-90, and the WDNR HCPs have been developed, in part, to provide for the conservation needs of bull trout while also allowing for otherwise lawful timber management activities. The duration of the permits associated with the Plum Creek and WDNR HCPs ranges from 30 to 100 years. The permittees have the option, however, of terminating at any time if they so choose, with a sixty-day notice to the Service. Moreover, the permittees may retain their permits but sell some of their lands covered by an HCP. All of these HCPs contain provisions that allow buyers of lands covered by the HCP to assume the permit if they so desire.

The Plum Creek I-90 HCP includes provisions that: (1) Generally allow for the sale or exchange of lands with the U.S. Forest Service, with some specific limitations relative to implementation of the Northwest Forest Plan; (2) allow for the sale of any lands provided appropriate covenants or assurances are given by the acquiring party that such lands will be managed consistent with the goals and objectives of the HCP; and (3) allow for the sale of parcels not in excess of 640 acres to any private party as long as the cumulative total of all such transactions does not exceed 5

percent of the acreage covered by the permit and the cumulative total of all such transactions in any one township does not exceed 1,920 acres. The Plum Creek Native Fish HCP applies a proportionality ratio to land dispositions relative to three categories of dispositions: Positive, neutral, and negative in terms of conservation benefits to covered species. Plum Creek has committed to manage its land dispositions so that the cumulative total of dispositions stays within a predetermined range of proportionality. If, at the end of the term of the HCP, the proportionality balance is below the predetermined range limits, positive land disposition commitments must be applied to sufficient acreage within the project area to restore the balance.

The WDNR lands are maintained primarily for the purpose of growing and selling timber to finance State government, and the management of these lands also can include purchases, sales, and land exchanges. The WDNR HCP does not include incentives for placing conservation easements on some of the land that WDNR sells. The HCP allows WDNR to dispose of Permit lands at its sole discretion. However, if the cumulative impact of disposed lands would have a significant adverse effect on the covered species, the parties to the HCP are required to mutually amend the HCP to provide replacement mitigation.

We evaluated lands covered by these existing Habitat Conservation Plans to determine whether they are (1) occupied and essential to the conservation of the species; (2) in need of additional special management considerations; and (3) currently not known to be occupied but essential to the conservation of the species. We evaluated each HCP to determine whether it: (1) Provides a conservation benefit to the species; (2) provides assurances that the management plan will be implemented; and (3) provides assurances the plan will be effective. Approved and permitted HCPs are designed to ensure the long-term survival of covered species within the plan area. Where we have an approved HCP, the areas we ordinarily would designate as critical habitat for the covered species will normally be protected through the terms of the HCPs and their implementation agreements. These HCPs and implementation agreements include management measures and protections that are crafted to protect, restore, and enhance their value as habitat for covered species.

The issuance of a permit (under Section 10(a) of the Act) in association with an HCP application is subject to consultation under Section 7(a)(2) of the

Act. While these consultations on permit issuance have not specifically addressed the issue of destruction or adverse modification of critical habitat for bull trout, they have addressed the very similar concept of jeopardy to bull trout in the plan area. Since these large regional HCPs address land use within the plan boundaries, habitat issues within the plan boundaries have been thoroughly addressed in the HCP and the consultation on the permit associated with the HCP. Our experience is that, under most circumstances, consultations under the jeopardy standard will reach the same result as consultations under the adverse modification standard. Common to both approaches is an appreciable detrimental effect on both survival and recovery of a listed species, in the case of critical habitat by reducing the value of the habitat so designated. Thus, actions satisfying the standard for adverse modification are nearly always found to also jeopardize the species concerned, and the existence of a critical habitat designation does not materially affect the outcome of consultation. Therefore, additional measures to protect the habitat from adverse modification are not likely to be required.

The Plum Creek I-90 and WDNR HCPs occur mostly in Western Washington, with minimal overlap (*i.e.*, lands adjacent to less than 50 stream miles for each Plan) with proposed critical habitat for the Columbia River DPS. The Plum Creek Native Fish HCP covers approximately 1.6 million acres, all within the range of the Columbia River DPS. Lands within this HCP occur adjacent to less than approximately 500 miles of streams reaches that we identified as proposed critical habitat.

We have reviewed the three HCPs within the Columbia River basin DPS of bull trout and we have determined that they do not require additional special management considerations to conserve bull trout. Therefore, these areas covered by an existing, legally operative incidental take permit issued for bull trout under section 10(a)(1)(B) of the Act are, by definition under Section 3(5)(A) of the Act, not included in this proposed designation of critical habitat.

As noted above, lands within these HCPs are subject to disposal (*e.g.*, through sale or exchange), subject to various sideboards included in each HCP. Proposed critical habitat does not include non-Federal lands covered by an incidental take permit for bull trout issued under section 10(a)(1)(B) of the Act for these HCPs as long as such permit, or a conservation easement providing comparable conservation

benefits, remains legally operative on such lands.

We also considered exclusion of HCPs under subsection 4(b)(2) of the Act, which allows us to exclude areas from critical habitat designation where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We believe that in most instances, the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them. We believe this is the case in relation to the three HCPs that address bull trout within the Columbia River DPS.

The benefits of including HCP lands in critical habitat are normally small. The principal benefit of any designated critical habitat is that activities in such habitat that may affect it require consultation under section 7 of the Act if such actions involve a Federal nexus (*i.e.*, an action authorized, funded, or carried out by a Federal agency). Such consultation would ensure that adequate protection is provided to avoid adverse modification of critical habitat. Where HCPs are in place, our experience indicates that this benefit is small or non-existent.

Further, HCPs typically provide for greater conservation benefits to a covered species than section 7 consultations because HCPs assure the long term protection and management of a covered species and its habitat. Such assurances are typically not provided by section 7 consultations which, in contrast to HCPs, often do not commit the project proponent to long term special management or protections.

The development and implementation of HCPs provide other important conservation benefits, including the development of biological information to guide conservation efforts and assist in species recovery and the creation of innovative solutions to conserve species while allowing for commercial activity. The educational benefits of critical habitat, including informing the public of areas that are important for the long-term survival and conservation of the species, are essentially the same as those that would occur from the public notice and comment procedures required to establish an HCP, as well as the public participation that occurs in the development of many regional HCPs. For these reasons, then, we believe that designation of critical habitat normally has little benefit in areas covered by HCPs.

The benefits of excluding HCPs from being designated as critical habitat include relieving landowners, communities and counties of any

additional regulatory review that result from such a designation. Many HCPs, particularly large regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery of covered species. Imposing an additional regulatory review after HCP completion may jeopardize conservation efforts and partnerships in many areas and could be viewed as a disincentive to those developing HCPs.

A related benefit of excluding HCP areas is that it would encourage the continued development of partnerships with HCP participants, including States, local governments, conservation organizations, and private landowners, that together can implement conservation actions we would be unable to accomplish alone. By excluding areas covered by HCPs from critical habitat designation, we preserve these partnerships and, we believe, set the stage for more effective conservation actions in the future.

In general, we believe the benefits of critical habitat designation to be small in areas covered by approved HCPs. We also believe that the benefits of excluding HCPs from designation are significant. Weighing the small benefits of inclusion against the benefits of exclusion, including the benefits of relieving property owners of an additional layer of approvals and regulation, together with the encouragement of conservation partnerships, would generally result in HCPs being excluded from critical habitat designation under section 4(b)(2) of the Act.

#### Tribal Lands

Please see the section "Government-to-Government Relationship With

Tribes" for a discussion of proposed critical habitat in relation to Tribal lands.

#### Proposed Critical Habitat Designation

Within the geographical areas presently known to be occupied by the Klamath River and Columbia River Basin DPSs, we are proposing for designation only areas currently known to be essential to the conservation of bull trout. These areas already contain features and habitat characteristics that are necessary to sustain the species. We are only proposing designation of areas that currently have one or more of the primary constituent elements that provide essential life-cycle requisites of the species, as defined at 50 CFR 424.12(b). Moreover, certain areas with known occurrences of bull trout have not been proposed for designation as critical habitat. We did not propose critical habitat for some small scattered occurrences or habitats that are in highly fragmented areas or no longer have hydrologic conditions that are sufficient to maintain bull trout habitat, as we do not believe, based on the best available scientific information, that these areas are essential to the conservation of the species.

The proposed critical habitat areas described below constitute our best assessment at this time of the stream reaches, lakes, and reservoirs that are essential to the conservation of the Klamath River and Columbia River bull trout population segments. We are proposing designation of approximately 476 km (296 mi) of streams and 13,735 ha (33,939 ac) of lakes for the Klamath River DPS, and 29,251 km (18,175 mi) of streams and 201,850 ha (498,782 ac) of lakes and reservoirs for the Columbia River DPS. Our proposal includes approximately 4,074 km (2,531 mi) of

stream reaches and 12,176 ha (30,075 ac) of lake and reservoir surface area habitat determined to be essential to the conservation of the bull trout, but that are not currently known to be occupied.

The lateral extent of critical habitat, for each proposed stream reach, is the width of the stream channel as defined by its bankfull elevation. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain (Rosgen 1996) and is reached at a discharge which generally has a recurrence interval of 1 to 2 years on the annual flood series (Leopold *et al.* 1992). Critical habitat extends from the bankfull elevation on one side of the stream channel to the bankfull elevation on the opposite side. If bankfull elevation is not evident on either bank, the ordinary high-water line as defined by the U.S. Army Corps of Engineers (Corps) in 33 CFR 329.11 shall be used to determine the lateral extent of critical habitat. Adjacent floodplains are not proposed as critical habitat. However, it should be recognized that the quality of aquatic habitat within stream channels is intrinsically related to the character of the floodplains and associated riparian zones, and human activities that occur outside the river channels can have demonstrable effects on physical and biological features of the aquatic environment. The lateral extent of proposed lakes and reservoirs is defined by the perimeter of the water body as mapped on standard 1:24,000 scale maps (comparable to the scale of a 7.5 minute U.S. Geological Survey Quadrangle topographic map).

The approximate amount of proposed critical habitat in the Klamath River Basin DPS, by State and adjacent landownership, is shown in Table 1.

TABLE 1.—APPROXIMATE LINEAR QUANTITY OF PROPOSED CRITICAL HABITAT (IN STREAM KILOMETERS (KM) AND MILES (MI)) AND SURFACE AREA OF LAKES (IN HECTARES (HA) AND ACRES(AC)), AND ADJACENT LANDOWNERSHIP PERCENTAGES FOR THE KLAMATH RIVER DPS

State	Streams (km)	Lakes (ha)	Federal (percent)	Tribal	Local/state	Private (percent)
OR .....	476 km (296 mi) .....	13,735 ha (33,939 ac)	55	n/a	n/a	45

The approximate amount of proposed critical habitat in the Columbia River Basin DPS, by State and adjacent landownership, is shown in Table 2.

TABLE 2.—APPROXIMATE LINEAR QUANTITY OF PROPOSED CRITICAL HABITAT (IN STREAM KILOMETERS (KM) AND MILES (MI)) AND SURFACE AREA OF LAKES AND RESERVOIRS (IN HECTARES (HA) AND ACRES(AC)) BY STATE, AND ADJACENT LANDOWNERSHIP PERCENTAGES FOR THE COLUMBIA RIVER DPS

State	Streams (km)	Lakes and reservoirs (ha)	Federal (percent)	Tribal (percent)	Local/State (percent)	Private (percent)
ID .....	14,416 km (8,958 mi) ..	83,219 ha (205,639 ac)	82	1	5	12

TABLE 2.—APPROXIMATE LINEAR QUANTITY OF PROPOSED CRITICAL HABITAT (IN STREAM KILOMETERS (KM) AND MILES (MI)) AND SURFACE AREA OF LAKES AND RESERVOIRS (IN HECTARES (HA) AND ACRES(AC)) BY STATE, AND ADJACENT LANDOWNERSHIP PERCENTAGES FOR THE COLUMBIA RIVER DPS—Continued

State	Streams (km)	Lakes and reservoirs (ha)	Federal (percent)	Tribal (percent)	Local/State (percent)	Private (percent)
MT .....	5,341 km (3,319 mi) ....	88,051 ha (217,577 ac)	60	1	5	34
OR .....	5,460 km (3,391 mi) ....	18,077 ha (44,670 ac)	49	4	1	46
WA .....	4,034 km (2,507 mi) ....	12,503 ha (30,896 ac)	39	3	4	54
Total .....	29,251 km (18,175 mi)	201,850 ha (498,782 ac).	58	2	4	36

Critical habitat includes bull trout habitat across the species' range in Idaho, Montana, Oregon, and Washington. Lands adjacent to proposed critical habitat are under private, State, Tribal, and Federal ownership, with Federal lands including lands managed by the USFS and BLM. Twenty-five critical habitat units have been delineated. The areas we are proposing as critical habitat, described below, constitute our best assessment of areas essential to the conservation of the Klamath and Columbia River distinct population segments of bull trout.

We are proposing critical habitat in 25 units that correspond to recovery units identified in the Draft Recovery Plan (USFWS 2002). Proposed critical habitat for the Klamath River DPS is entirely within Unit 1. Proposed critical habitat for the Columbia River DPS is in Units 2 through 25. Brief descriptions of each unit and the critical habitat subunits (CHSUs) within them, and the specific areas proposed for designation as critical habitat, are presented below. For ease of reference, the paragraph designations in parentheses at the beginning of each unit correspond with paragraph designations in the amendatory language at the end of this rule, which provide the legal descriptions (latitude and longitude coordinates) for each area proposed for designation (see Proposed Regulation Promulgation section).

The streams, lakes and reservoirs indicated below are generally described from the bottom to the top of a watershed within a proposed critical habitat unit or subunit. For example, river or stream "A" would be described from its mouth up to the first major tributary (stream "B") that is also being proposed as critical habitat. At that point, tributary stream "B" and any of its associated tributaries that are also being proposed would be described, again from the mouth of stream "B" upstream to either the next tributary being proposed or to the limit of proposed critical habitat within stream "B". Once this description is complete, the text again reverts to river/stream A

and continues upstream, either to the next tributary being proposed (e.g. stream C) or to the upstream limit of proposed critical habitat in Stream A. This provides a "roadmap" that enables the reader to appreciate the extent of the proposal in a particular watershed or stream system, as well as to have the ability to work their way up from a landmark more likely to be familiar (e.g., the mouth of the Tucannon River at its confluence with the Snake River) to locate a particular, generally more obscure tributary in the upper watershed. Together with the maps included with this proposed rule, readers should be able to easily locate where a stream of interest that is being proposed as bull trout critical habitat occurs on the landscape.

The legal descriptions provided in the regulatory portion of this proposed rule (see Proposed Regulation Promulgation) correspond to the critical habitat units and subunits described below. However, the legal descriptions of individual streams and lakes/reservoirs within each subunit paragraph are arranged in alphabetical order by stream or lake/reservoir name within a paragraph, whereas the descriptions within a paragraph in this preamble section are arranged as if one was working their way up from the bottom to the top of a watershed within a proposed stream network.

#### (5) Unit 1: Klamath River Basin

The Klamath River Basin is located in south-central Oregon and includes three critical habitat subunits: (1) Upper Klamath Lake CHSU in Klamath County; (2) Sycan Marsh CHSU in Klamath County; and (3) Upper Sprague River CHSU in Klamath and Lake counties. Total proposed critical habitat includes 475 km (295 mi) of streams representing 9.4 percent of the total stream lengths in the unit. Proposed critical habitat includes: 224.6 km (139.6 mi) of stream in 13 reaches, and 3,775 ha (9,327 ac) of lake in the Upper Klamath CHSU; 103.8 km (64.5 mi) of stream in 6 reaches, and 9,965 ha (24,625 ac) of marsh in the Sycan Marsh

CHSU; and 146 km (91 mi) of stream in 10 reaches in the Upper Sprague CHSU.

#### (i) Upper Klamath Lake CHSU

Encompassing 170,289 ha (420,792 ac), the Upper Klamath Lake CHSU comprises of Upper Klamath Lake, Agency Lake, and their immediate major and minor tributaries. Landownership comprises: 84 percent Federal lands; 6 percent State or local government land; and 10 percent privately owned lands.

The Upper Klamath Lake CHSU currently supports three local populations of bull trout, with two considered essential to the conservation of the species—Threemile Creek and Sun Creek (USFWS 2002). The third population, Lost Creek in Crater Lake National Park, was established with transplanted fish to provide temporary refuge during restoration actions in the Park. To fully achieve recovery of bull trout in the Klamath Basin, the Draft Recovery Plan (USFWS 2002) requires five to seven local populations in the Upper Klamath Lake CHSU. The following stream segments are included in this critical habitat unit:

(A) Upper Klamath Lake Corridor, comprised of the streams and canals between Agency Straight at the north end of Upper Klamath Lake west to the Westside Road, north to the lower end of the Sevenmile Creek canyon, southeast along Sevenmile Creek and Sevenmile Canal to Agency Lake; and the circumference and body of Agency Lake. This includes the Sevenmile Canal from its confluence with Agency Lake upstream to its confluence with the West Canal and Sevenmile Creek (11.6 km (7.2 mi)); 11.7 km (7.3 mi) of Sevenmile Creek from its confluence with Sevenmile Canal and West Canal upstream to the beginning of the Sevenmile Creek canyon above the beaver ponds; the West Canal from its confluence with Agency Lake to its confluence with Sevenmile Canal (15.0 km (9.3 mi)); Crane Creek from its confluence with Fourmile Creek to its source springs at river kilometer (rkm) 6.1 (river mile (rmi) 3.8); Fourmile Creek from its confluence with the West

Canal to source springs at rkm 4.3 (rmi 2.7); Fourmile Slough from its confluence with the West Canal to its head near Crystal Springs at (3.5 km (2.2 mi)); Crystal Creek from its confluence with Upper Klamath Lake to its source springs at rkm 5.0 (rmi 3.1); Recreation Creek from its confluence with Upper Klamath Lake to its confluence with Crystal Creek at rkm 3.7 (rmi 2.3); and the entire 3,775 ha (9,327 ac) Agency Lake. These areas are essential to restoring migratory forms of bull trout in the Upper Klamath Lake core area and reestablishing connectivity among populations of bull trout in Rock, Cherry, Threemile, and Sevenmile Creeks on the west side of the upper Klamath Basin, and populations of bull trout in the Wood River drainage and Crater Lake National Park.

(B) Rock Creek from the lower limit of permanent water at Penn Creek upstream to its origin at Heavenly Twin Lake (9.2 km (5.7 mi)); and Cherry Creek from its confluence with Fourmile Creek to the upper limit of perennial water (15.5 km (9.6 mi)). This area, which is the focus of restoration and reestablishment efforts under the Draft Recovery Plan, is a key watershed for reintroduction of a bull trout population that is essential to the conservation of the species (USFWS 2002).

(C) Threemile Creek from its confluence with Crane Creek to the upper limit of permanent water (6.9 km (4.3 mi)). This spawning and rearing habitat supports an essential local population and is a source for bull trout colonization of other watersheds (USFWS 2002).

(D) The entire 30.3 km (20.7 mi) length of the Wood River; 12.0 km (7.5 mi) of rooked Creek from its confluence with Agency Lake to its source at rkm 14.5 (rmi 9.0); 5.0 km (3.1 mi) of Fort Creek from its confluence with Wood River upstream to the upper limit of permanent water; Annie Creek from its confluence with Wood River upstream 24.5 km (15.2 mi); and Middle Fork of Annie Creek from its confluence with the mainstem Annie Creek to the headwater springs (6.1 km (3.8 mi)). These are areas of spawning and rearing, and foraging, migratory and overwintering habitat. These areas supported bull trout historically (Buchanan 1997).

(E) Sun Creek from its confluence with Annie Creek at rkm 2.0 (rmi 1.2) to the upper limit of bull trout distribution in Sun Meadow at rkm 21.5 (rmi 13.4) (Ratliff and Howell 1992; Bokenica 1997). This spawning and rearing habitat supports an essential local population and is a source for bull

trout colonization of other watersheds (USFWS 2002).

#### (ii) Sycan Marsh CHSU

Encompassing 81,818 ha (202,175 ac), the Sycan Marsh CHSU comprises the Sycan Marsh, its tributaries, and the Sycan River and its tributaries. Landownership comprises: 56 percent Federal lands and 44 percent privately owned lands.

The Sycan Marsh CHSU currently supports two local populations of bull trout considered essential to the conservation of the species—Long Creek and Coyote Creek (USFWS 2002). To achieve recovery of bull trout in the Klamath Basin, the Draft Recovery Plan (USFWS 2002) requires five to seven local populations in the Sycan Marsh CHSU.

(A) Sycan Marsh and Sycan River includes over 23,944 ha (59,166 ac) of the Sycan Marsh, and 31.0 km (19.3 mi) of the Sycan River from its confluence with the Sycan Marsh to the confluence with Rock Creek at rkm 103.2 (rmi 64.1). Portions of this area are currently occupied and other parts were historically inhabited by bull trout. This area is essential for reestablishing migratory forms of bull trout in the Sycan Marsh core area and reestablishing connectivity among populations in Long Creek, Coyote Creek, Rifle Creek, and Boulder Creek. The Sycan River from the confluence with Rock Creek at rkm 103.2 (rmi 64.1) upstream to its origins (11.7 km (7.3 mi)) supported bull trout historically (Ratliff and Howell 1992; Light *et al.* 1996), and is the focus of efforts to establish additional spawning populations of bull trout that are essential to the conservation of the species.

(B) Long Creek from the confluence with Sycan Marsh upstream to its source at rkm 19.6 (rmi 12.2); and 11.3 km (7.0 mi) of spawning and rearing habitat in Calahan Creek from its confluence with Long Creek at rkm 7.7 (rmi 4.8) to its source at Blue Buck Springs. This area is currently occupied by bull trout (Ratliff and Howell 1992; Light *et al.* 1996). This area is essential for maintaining one of the strongest bull trout populations remaining in the Klamath Basin. The area is the focus of restoration and reestablishment efforts as described in the Draft Recovery Plan, and as a relative “stronghold,” this area is a potential source of bull trout for colonization that is essential to restoring populations of other watersheds (USFWS 2002).

(C) Coyote Creek from the confluence with the Sycan Marsh 2.4 km (1.5 mi) below the crossing of USFS Road 27

upstream to the upper limit of permanent water at rkm 11.2 (rmi 7.0). The area supports one of only 10 extant populations of bull trout in the Klamath Basin and one of only two in this CHSU. It is the focus of restoration and reestablishment efforts to achieve recovery for this species (USFWS 2002) and is essential to the conservation of the species.

(D) Rifle Creek from the confluence with the Sycan River at rkm 97.7 (rmi 60.7) upstream 4.0 km (2.5 mi) to its origins; the entire length of Boulder Creek from its confluence with the Sycan River at rkm 109.8 (rmi 68.2) upstream 2.5 km (1.5 mi); and South Fork Sycan River from its confluence with the Sycan River at rkm 108.8 (rmi 67.6) upstream 6.1 km (3.8 mi) to its origins. These areas supported bull trout historically (Ratliff and Howell 1992; Light *et al.* 1996), and are the focus of efforts to establish additional spawning populations of bull trout that are essential to the conservation of the species.

#### (iii) Upper Sprague River CHSU

Encompassing 83,810 ha (207,099 ac), the Upper Sprague River CHSU comprises the drainages of the North and South Forks of the Sprague River and their tributaries. Landownership comprises: 56 percent Federal lands and 44 percent privately owned lands.

The Upper Sprague River CHSU currently supports five local populations of bull trout considered essential to the conservation of the species: Boulder/Dixon Creek; Sheepy Creek; Deming Creek; Brownsworth Creek; and Leonard Creek. A remnant fluvial population exists in the North Fork of the Sprague River (USFWS 2002). To fully achieve recovery of bull trout in the Klamath Basin, the Draft Recovery Plan (USFWS 2002) calls for a total of 7 to 10 local populations in the Upper Sprague River CHSU.

(A) North Fork Sprague River from “the Elbow” 3.7 km (2.3 mi) below the confluence of Yaden Creek at rkm 18.0 (rmi 11.2) upstream to the confluence of Blue Lake Creek (31.6 km (19.6 mi)); Boulder Creek from its confluence with the North Fork Sprague River at rkm 24.1 (rmi 15.0) upstream 7.7 km (4.8 mi); Dixon Creek from its confluence with Boulder Creek at rkm 1.2 (rmi 0.7) upstream to its origin (2.2 km (1.4 mi)); and an unnamed tributary to Dixon Creek from the confluence upstream 1.2 km (0.8 mi) to its origin. Bull trout currently occupy the tributaries and at least one mainstem reach of the river (Oregon Chapter of the American Fisheries Society (OCAFS) 1993, Ratliff and Howell 1992; Light *et al.* 1996, J.

auner, Oregon Department of Fish and Wildlife (ODFW), pers. Comm., 1999; R. Smith, ODFW, pers. Comm. 2001). The area supports one of only 10 extant populations of bull trout in the Klamath Basin and one of only five populations in this CHSU, all of which are essential to the conservation of the species. The area is the focus of restoration and reestablishment efforts as described in the Draft Recovery Plan, and as a relative "stronghold," this area is a potential source of bull trout for colonization that is essential to restoring populations of other watersheds (USFWS 2002).

(B) Sheepy Creek from its confluence with the North Fork Sprague at rkm 26.8 (rmi 16.6) to its source springs (5.3 km (3.3 mi)). The area supports one of only 10 extant populations of bull trout in the Klamath Basin and one of only five populations in this CHSU, all of which are essential to the conservation of the species. The area is the focus of restoration and reestablishment efforts as described in the Draft Recovery Plan, and as a relative "stronghold," this area is a potential source of bull trout for colonization that is essential to restoring populations of other watersheds (USFWS 2002).

(C) Gearhart Creek from its confluence with the North Fork Sprague at rkm 32.6 (rmi 20.2) upstream to Gearhart Marsh (9.0 km (5.6 mi)) (above Gearhart Marsh flows become intermittent; Hole Creek from its confluence with Gearhart Creek at rkm 1.9 (rmi 1.2) upstream to the upper limit of permanent water (3.3 km (2.0 mi)); Nottin Creek from its confluence with Gearhart Creek at rkm 1.7 (rmi 1.1) upstream to the upper limit of permanent water 5.3 km (3.3 m); and School Creek from its confluence with the North Fork Sprague River at rkm 43.4 (rmi 27.0) to its origins (7.0 km (4.3 mi)). This area is the focus of efforts to reestablish additional spawning populations of bull trout essential to the conservation of the species, as described in the Draft Recovery Plan (USFWS 2002).

(D) Dead Cow Creek from its confluence with the North Fork Sprague River at rkm 46.9 (rmi 29.1) upstream 6.6 km (4.1 mi); and Gold Creek from its confluence with Dead Cow Creek at rkm 1.5 (rmi 0.9) upstream 2.9 km (1.8 mi). The Dead Cow drainage (Dead Cow and Gold creeks) supported bull trout historically. This area is the focus of efforts to reestablish additional spawning populations of bull trout essential to the conservation of the species, as described in the Draft Recovery Plan (USFWS 2002).

(E) The entire length of Deming Creek from its confluence with Anderson

Field to its headwaters at rkm 7.8 (rmi 4.8). Deming Creek is currently inhabited by bull trout and is the largest remaining local population in the Klamath Basin (Ratliff and Howell 1992; Light *et al.* 1996). The area supports the largest of only 10 populations of bull trout in the Klamath Basin and the largest of only five populations in this CHSU, all of which are essential to the conservation of the species. The area is the focus of restoration and reestablishment efforts as described in the Draft Recovery Plan, and as a relative "stronghold," this area is a potential source of bull trout for colonization that is essential to restoring populations of other watersheds (USFWS 2002).

(F) Lower South Fork Sprague River from the confluence of Brownsworth Creek at rkm 23.0 (rmi 14.3) upstream 21.7 km (13.5 mi) to the confluence of Camp Creek; Camp Creek from its confluence with the South Fork Sprague River at rkm 44.7 (rmi 27.8) to its origin (5.0 km (3.1 mi)); Corral Creek from its confluence with the South Fork Sprague River at rkm 46.3 (rmi 28.8) to its origin (4.5 km (2.8 mi)); Upper South Fork Sprague River from the confluence with Camp Creek at rkm 44.7 (rmi 27.8) upstream to its source at rkm 50.3 (rmi 31.2) (5.6 km (3.5 mi)); and the entire length of Brownsworth Creek from its confluence with the South Fork Sprague River upstream 13.3 km (8.8 mi) to the upper limit of permanent water. These areas are currently occupied by an essential local population (OCASF 1993; Light *et al.* 1996; Buchanan *et al.* 1997; USFWS 2002). This area is the focus of efforts to reestablish additional spawning populations of bull trout essential to the conservation of the species, as described in the Draft Recovery Plan (USFWS 2002).

(G) Leonard Creek from its confluence with Brownsworth Creek at rkm 7.0 (rmi 4.3) upstream to its source. Leonard Creek is currently inhabited by bull trout (Ratliff and Howell 1992; Light *et al.* 1996). The area supports one of only 10 extant populations of bull trout in the Klamath Basin and one of only five populations in this CHSU, all of which are essential to the conservation of the species. The area is the focus of restoration and reestablishment efforts as described in the Draft Recovery Plan, and as a relative "stronghold," this area is a potential source of bull trout for colonization that is essential to restoring populations of other watersheds (USFWS 2002).

#### (6) Unit 2: Clark Fork River Basin

The Clark Fork River Basin unit includes 12 CHSUs, organized primarily

on the basis of major watersheds. It includes most of western Montana and the panhandle portion of northern Idaho. The summary of landownership and extent of proposed critical habitat are presented with each CHSU description.

#### (i) Lake Pend Oreille CHSU

The Lake Pend Oreille CHSU incorporates all waters in the Clark Fork River drainage downstream from Cabinet Gorge Dam (near the Montana/Idaho border), including all direct tributaries to Lake Pend Oreille, the lower portion of the Priest River drainage (downstream from Priest Lake Dam), and the Pend Oreille River (the impounded downstream arm of Lake Pend Oreille) downstream to the crest of Albeni Falls Dam. The CHSU is almost entirely within the State of Idaho in Boundary, Bonner, and Kootenai counties. A total of 286 km (178 mi) of 27 streams and the 38,304 ha (94,650 ac) surface area of Lake Pend Oreille are proposed for designation as critical habitat for bull trout. Landownership along the streams is approximately 36 percent Federal, 14 percent State, and 50 percent private. Lakeshore ownership has not been quantified, but approximately half of it is private with the other half mostly on Federal (National Forest) lands. Bull trout local populations in this CHSU include Lower Priest River, Pack River, Grouse Creek, Trestle Creek, Gold Creek, North Gold Creek, Granite Creek, Johnson Creek, Lightning Creek Complex, Twin Creek, and Clark Fork River, all of which are considered essential for recovery of the species (USFWS 2002).

(A) Lake Pend Oreille totals about 38,304 ha (94,650 ac). The best available scientific information indicates that most bull trout in the Lake Pend Oreille CHSU are migratory and adfluvial, using the lake for a portion of their life cycle (Panhandle Bull Trout Technical Advisory Team (PBTTAT) 1998a).

(B) The lower Priest River from its confluence with the Pend Oreille River (the impounded downstream arm of Lake Pend Oreille) upstream 34.4 km (21.4 mi) to the confluence with the East River provides foraging, migratory, and overwintering (FMO) habitat connecting spawning areas with Lake Pend Oreille. The East River from its confluence with the Priest River upstream 4.0 km (2.5 mi), and the Middle Fork East River from its confluence with the East River upstream 15.5 km (9.6 mi) provide spawning and rearing habitat for primarily migratory forms of bull trout. Tarlac Creek from its confluence with the Middle Fork East River upstream 5.3 km (3.3 mi) to the headwaters, and



Uleda Creek from its confluence with the Middle Fork East River upstream 5.9 km (3.7 mi) provide spawning and rearing habitat for bull trout that are likely resident forms.

(C) The Pack River from its confluence with Lake Pend Oreille upstream 64.1 km (39.8 mi) contains FMO habitat in the lower reaches, and spawning and spawning and rearing habitat in the upper reaches for the Pack River local population of bull trout.

(D) Grouse Creek from its confluence with the Pack River upstream 26.7 km (16.6 mi) to the headwaters contains FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches. North Fork Grouse Creek from its confluence with Grouse Creek upstream 14.8 km (9.2 mi) to the headwaters provides spawning and rearing habitat.

(E) Trestle Creek from its confluence with Lake Pend Oreille upstream 14.4 km (8.9 mi) provides the most productive spawning and rearing habitat in the Lake Pend Oreille CHSU.

(F) Gold Creek from its confluence with Lake Pend Oreille upstream 2.7 km (1.7 mi), West Gold Creek from its confluence with Gold Creek upstream 2.3 km (1.4 mi), and North Gold Creek from its confluence with Lake Pend Oreille upstream 2.0 km (1.3 mi) provide spawning and rearing habitat for the Gold Creek bull trout local population complex. Gold Creek is considered the second most important bull trout spawning stream in the Lake Pend Oreille critical habitat subunit (PBTTAT 1998a).

(G) Granite Creek from its confluence with Lake Pend Oreille upstream 10.1 km (6.3 mi), Sullivan Springs from its confluence with Granite Creek upstream 2.1 km (1.3 mi), and Dry Gulch from its confluence with Granite Creek upstream 1.7 km (1.0 mi) provide spawning and rearing habitat for the Granite Creek population complex.

(H) Johnson Creek from its confluence with the south channel of the Clark Fork River delta at the confluence with Lake Pend Oreille upstream 1.2 km (0.7 mi) provides spawning and rearing habitat for the Johnson Creek local population.

(I) The Clark Fork River from its confluence with Lake Pend Oreille upstream 14.6 km (9.1 mi) to Cabinet Gorge Dam provides FMO habitat between Lake Pend Oreille and upstream local populations in Lightning and Twin creeks.

(J) Lightning Creek from its confluence with the Clark Fork River upstream 29.5 km (18.3 mi) to a barrier falls provides FMO habitat in the lower reaches below the confluence with East Fork Creek, and spawning and rearing

habitat in the upper reaches above this point. Morris Creek from its confluence with Lightning Creek upstream 3.3 km (2.1 mi), East Fork Creek from its confluence with Lightning Creek upstream 6.5 km (4.1 mi), Savage Creek from its confluence with East Fork Creek upstream 5.9 km (3.7 mi), Char Creek from its confluence with East Fork Creek upstream 3.4 km (2.1 mi), Porcupine Creek from its confluence with Lightning Creek upstream 3.0 km (1.9 mi), Wellington Creek from its confluence with Lightning Creek upstream 1.0 km (0.6 mi), and Rattle Creek from its confluence with Lightning Creek upstream 6.0 km (3.7 mi) provide spawning and rearing habitat for the Lightning Creek population complex (Lake Pend Oreille Watershed Advisory Group 1999).

(K) Dry Creek from its confluence with the Clark Fork River upstream 0.1 km (0.06 mi) to the confluence with Twin Creek provides a migratory connection between Clark Fork River and Twin Creek. Twin Creek from its confluence with Dry Creek upstream 3.9 km (2.4 mi) provides spawning and rearing habitat for the Twin Creek local population of bull trout.

(ii) Lower Clark Fork River CHSU

The Lower Clark Fork River CHSU includes the three mainstem Clark Fork River impoundments (Cabinet Gorge, Noxon Rapids, and Thompson Falls reservoirs), the Clark Fork River between reservoirs and upstream to the confluence of the Flathead River, the lower Flathead River drainage downstream from Kerr Dam, and all tributaries to these waters. With the exception of the lower boundary at Cabinet Gorge Dam (in Bonner County, Idaho), nearly all the CHSU is located in the northwestern corner of Montana (Sanders, Lake, and Missoula counties).

Major portions of this CHSU, including the entire lower Flathead River drainage, are inside the boundaries of the Flathead Indian Reservation, and fall under the jurisdiction of the Confederated Salish and Kootenai Tribes (CSKT). There are 13 local populations of bull trout in this CHSU: Rock Creek, Bull River, Prospect Creek, Graves Creek, Vermilion River, Fishtrap Creek, West Fork Thompson River, Post Creek, Mission Creek, Dry Creek, and Jocko River, all of which are essential to the conservation of the species.

A total of 503 km (312 mi) of 24 streams and 4,862 ha (12,014 ac) of lake surface area in five reservoirs (Cabinet Gorge, Noxon Rapids, Mission, McDonald, and Tabor) is proposed for designation as critical habitat for bull

trout in this CHSU. Landownership along the streams is approximately 31 percent Federal, 1 percent State, 13 percent CSKT Tribal, and 55 percent private. Landownership on the reservoir shoreline has not been determined, but its mostly private land along the two large reservoirs with less than 25 percent as National Forest. The three small reservoirs are completely surrounded by CSKT Tribal Lands.

(A) Cabinet Gorge Reservoir (Clark Fork River), 1,295 ha (3,200 ac) at full pool, provides FMO habitat for the Bull River and Rock Creek local populations of bull trout (Pratt and Huston 1993).

(B) The Bull River from its confluence with Cabinet Gorge Reservoir (Clark Fork River) upstream 14.3 km (8.9 mi) to the confluence with the South and East forks provides FMO habitat for upstream local populations. Copper Creek from its confluence with the Bull River upstream 7.4 km (4.6 mi) to the headwaters provides rearing habitat (MBTSG 1996a). The Bull River East Fork from its mouth upstream 12.8 km (8 mi) and the Bull River South Fork from its mouth upstream 29.8 km (18.6 mi) provide spawning and rearing habitat for the Bull River local population (MBTSG 1996a).

(C) Rock Creek from its confluence with Cabinet Gorge Reservoir (Clark Fork River) upstream 11.4 km (7.1 mi) to a natural barrier provides spawning and rearing habitat for the Rock Creek local population.

(D) Noxon Rapids Reservoir (Clark Fork River), 3,237 ha (8,000 ac) at full pool, provides FMO habitat for low abundance local populations in the reservoir tributaries (Pratt and Huston 1993; MBTSG 1996a).

(E) The Vermilion River from its confluence with Noxon Rapids Reservoir (Clark Fork River) upstream 12.3 km (7.6 mi) to a natural barrier at Vermilion Falls provides important spawning and rearing habitat for the Vermilion River local population. Graves Creek from its confluence with Noxon Rapids Reservoir upstream 5.0 km (3.1 mi) to a natural barrier, Prospect Creek from its confluence with Noxon Rapids Reservoir upstream 12.3 km (7.6 mi), Crow Creek from its confluence with Prospect Creek upstream 2.0 km (1.2 mi), and Crow Creek East Fork from its confluence with Crow Creek upstream 5.5 km (3.4 mi) all provide spawning and rearing habitat as well (Pratt and Huston 1993; MBTSG 1996a).

(F) The Clark Fork River upstream 93.3 km (58.0 mi) from the head of Noxon Rapids Reservoir to the confluence with the Flathead River provides FMO habitat for tributary

populations of bull trout (Pratt and Huston 1993).

(G) The Thompson River from its confluence with the Clark Fork River upstream 32.3 km (20.0 mi) contains FMO habitat. West Fork Thompson River from its mouth upstream 8.0 km (5.0 mi) to the confluence of Lakes Creek; Fishtrap Creek from its confluence with the Thompson River upstream 17.0 km (10.5 mi) to the confluence with Fishtrap Creek West Fork; Beatrice Creek from its confluence with Fishtrap Creek upstream 8.5 km (5.3 mi) to its headwaters, and Fishtrap Creek West Fork from its mouth upstream 10.2 km (6.4 mi) provide spawning and rearing habitat necessary for the recovered distribution of bull trout (USFWS 2002). Bull trout in the West Fork Thompson River are categorized as being among the strongest remaining populations in the Thompson River basin (MBTSG 1996d).

(H) The Flathead River from the confluence with the Clark Fork River (about 60 km (37 mi) upstream from Thompson Falls Dam) upstream to the confluence with Mission Creek is occupied by bull trout at low abundance levels (MBTSG 1996d), and provides FMO habitat necessary for the recovered distribution of bull trout (USFWS 2002), including maintaining populations and the migratory life history form essential to the long-term conservation of bull trout.

(I) The Jocko River from its confluence with the Flathead River upstream 47.0 km (29.2 mi) to the confluence with the North Fork Jocko River provides FMO habitat. The North Fork Jocko River from its mouth upstream 9.9 km (6.1 mi) to a natural barrier, the South Fork Jocko River from its mouth upstream 15.0 km (9.3 mi) to a natural barrier, and the Middle Fork Jocko River from its mouth upstream 14.2 km (8.8 mi) are occupied, and provide spawning and rearing habitat for the Jocko River local population. Together these areas provide habitat necessary for the recovered distribution of bull trout (USFWS 2002), including maintaining populations and the migratory life history form essential to the long-term conservation of bull trout.

(J) Mission Creek from its confluence with the Flathead River upstream 34.8 km (21.7 mi) to Mission Dam, Post Creek from its confluence with Mission Creek upstream 26.1 km (16.2 mi) to a manmade barrier at McDonald Lake, and Dry Creek from its confluence with Mission Creek upstream 14.2 km (8.8 mi) to a manmade barrier at Tabor Reservoir are occupied, at a minimum, by migratory bull trout from the reservoirs and lake (MBTSG 1996d), and

provide FMO habitat necessary for the recovered distribution of bull trout (USFWS 2002), including maintaining populations and the migratory life history form essential to the conservation of bull trout. These creeks also provide occupied spawning and rearing habitat above the reservoirs and lake (MBTSG 1996d). Mission Creek spawning and rearing habitat extends upstream approximately 1.6 km (1.0 mi) above Mission Reservoir to a manmade barrier. Post Creek spawning and rearing habitat extends upstream approximately 3.2 km (2 mi) above McDonald Lake to a natural barrier. Dry Creek spawning and rearing habitat extends upstream approximately 0.8 km (0.5 mi) above Tabor Reservoir to a natural barrier. McDonald Reservoir (approximately 101 ha (250 ac), when full), Mission Reservoir (approximately 117 ha (289 ac), when full), and Tabor Reservoir (St. Mary Lake) (approximately 111 ha (274 ac), when full) provide FMO habitat for the Post Creek, Mission Creek, and Dry Creek local populations, respectively (MBTSG 1996d).

#### (iii) Middle Clark Fork River CHSU

The Middle Clark Fork River CHSU includes the mainstem of the Clark Fork River in western Montana and all tributary watersheds, from the confluence of the Flathead River upstream to the base of Milltown Dam, except for the Bitterroot River drainage. A total of 622 km (386 mi) of 28 streams is proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams is approximately 51 percent Federal, 3 percent State, and 46 percent private, all occurring in Mineral and Missoula counties, Montana.

(A) The Clark Fork River from the confluence with the Flathead River upstream approximately 192.1 km (119.4 mi) to Milltown Dam provides historically occupied FMO habitat that is still currently occupied, but at very low abundance levels (Pratt and Huston 1993; MBTSG 1996d). This reach is important to provide for the recovered distribution of bull trout (USFWS 2002), including the maintenance of existing populations and the migratory life history form essential to the conservation of bull trout.

(B) The St. Regis River from its confluence with the Clark Fork River upstream 62.1 km (38.6 mi) to its headwaters provides FMO habitat in the lower reaches up to Twelvemile Creek, and spawning and rearing habitat in the upper reaches. Little Joe Creek from its confluence with the St. Regis River upstream 4.0 km (2.5 mi) to its forks; South Fork Little Joe Creek from its

mouth upstream 16.3 km (10.1 mi) to its headwaters; North Fork Little Joe Creek from its mouth upstream 17.2 km (10.7 mi) to its headwaters; Ward Creek from its confluence with the St. Regis River upstream 12.3 km (7.6 mi) to its headwaters; Twelvemile Creek from its confluence with the St. Regis River upstream 21.6 km (13.4 mi) to its headwaters; Deer Creek from its confluence with the St. Regis River upstream 6.6 km (4.1 mi); Big Creek from its confluence with the St. Regis River upstream 5.4 km (3.4 mi) to its forks; East Fork Big Creek from its mouth upstream 9.6 km (5.9 mi) to its headwaters; Middle Fork Big Creek from its mouth upstream 8.0 km (5.0 mi); and West Fork Big Creek from its mouth upstream 9.2 km (5.7 mi) provide spawning and rearing habitat for the St. Regis River local population complex of bull trout (MBTSG 1996d).

(C) Cedar Creek from its confluence with the Clark Fork River upstream 24.7 km (15.3 mi), Oregon Gulch from its confluence with Cedar Creek upstream 4.5 km (2.8 mi), and Lost Creek from its confluence with Oregon Gulch upstream 11.4 km (7.1 mi) provide spawning and rearing habitat for the Cedar Creek local population of bull trout (MBTSG 1996d), as well as to provide for the recovered distribution of bull trout (USFWS 2002).

(D) Trout Creek from its confluence with the Clark Fork River upstream 23.6 km (14.7 mi) contains spawning and rearing habitat (MBTSG 1996d) for the Trout Creek local population.

(E) Fish Creek from its confluence with the Clark Fork River upstream 14.7 km (9.1 mi) to its forks provides FMO habitat to upstream bull trout. North Fork Fish Creek from its mouth upstream 16.1 km (10.0 mi); Straight Creek from its confluence with North Fork Fish Creek upstream 13.1 km (8.1 mi) to its headwaters; West Fork Fish Creek from its confluence with Fish Creek upstream 28.2 km (17.5 mi); Indian Creek from its confluence with West Fork Fish Creek upstream 2.1 km (1.3 mi); South Fork Fish Creek from its confluence with Fish Creek upstream 25.1 km (15.6 mi) to its headwaters; Surveyors Creek from its confluence with South Fork Fish Creek upstream 6.6 km (4.1 mi) to its headwaters; Cache Creek from its confluence with South Fork Fish Creek upstream 15.8 km (9.8 mi); Montana Creek from its confluence with Cache Creek upstream 9.2 km (5.7 mi) to its headwaters; and White Creek from its confluence with Cache Creek upstream 7.3 km (4.5 mi) to its headwaters provide spawning and rearing habitat for the Fish Creek local population complex (MBTSG 1996d).

(F) Petty Creek from its confluence with the Clark Fork River upstream 18.6 km (11.6 mi) provides spawning and rearing habitat for the Petty Creek local population (MBTSG 1996d).

(G) Rattlesnake Creek from its confluence with the Clark Fork River upstream 37.5 km (23.3 mi) to the headwaters provides FMO habitat in the lower reaches (up to Mountain Water Company Dam), and spawning and rearing habitat above that point (MBTSG 1996d).

(iv) Upper Clark Fork River CHSU

The Upper Clark Fork River CHSU includes the entire Clark Fork River in western Montana upstream from Milltown Dam (near Missoula), with the exception of the Blackfoot River, Clearwater River, and Rock Creek drainages. A total of 484 km (301 mi) of 13 streams is proposed for designation as critical habitat for bull trout in this CHSU in Missoula, Granite, Powell, and Deer Lodge counties. Landownership adjacent to proposed stream segments is approximately 25 percent Federal, 3 percent State, and 72 percent private.

(A) The Clark Fork River from Milltown Dam upstream approximately 185 km (115 mi) to the headwaters at the confluence with Warm Springs Creek provides FMO habitat for the recovered distribution of bull trout (USFWS 2002). This area is important to provide for the maintenance of existing populations and the migratory life history form essential to the long-term conservation of bull trout.

(B) Harvey Creek from its confluence with the Clark Fork River upstream 25.0 km (15.6 mi) to its headwaters provides FMO habitat below a manmade barrier about 0.4 km (0.2 mi) above the confluence, and spawning and rearing habitat above that point for the resident Harvey Creek local population (MBTSG 1995e).

(C) Flint Creek from its confluence with the Clark Fork River upstream 25.9 km (16.1 mi) to its confluence with Boulder Creek is occupied at low abundance but provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches (MBTSG 1995e).

(D) Boulder Creek from its confluence with Flint Creek upstream 22.6 km (14.0 mi), and South Boulder Creek from its confluence with Flint Creek upstream 13.7 km (8.5 mi) provide spawning and rearing habitat (MBTSG 1995e).

(E) The Little Blackfoot River from its confluence with the Clark Fork River upstream 76.8 km (47.7 mi) to its headwaters provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches.

This river is necessary both to provide for the recovered distribution of bull trout as well as to maintain spawning populations in the upper reaches (MBTSG 1995e; USFWS 2002).

(F) Racetrack Creek from its confluence with the Clark Fork River upstream 19.9 km (12.4 mi) to a natural barrier near the junction of Granite Creek provides spawning and rearing habitat for the Racetrack Creek local population (MBTSG 1995e).

(G) Warm Springs Creek from its confluence with the Clark Fork River upstream 52.4 km (32.5 mi) provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches to support both the Warm Springs local population complex, and provide for the recovered distribution of bull trout (USFWS 2002), including maintaining existing populations and the migratory life history form essential to the long-term conservation of bull trout. Barker Creek from its confluence with Warm Springs Creek upstream 8.0 km (5.0 mi) to its headwaters at Barker Lake, Foster Creek from its confluence with Warm Springs Creek upstream 15.8 km (9.8 mi) to its headwaters, Twin Lakes Creek from its confluence with Warm Springs Creek upstream 16.2 km (10.1 mi) to its headwaters, Cable Creek from its confluence with Warm Springs Creek upstream 5.0 km (3.1 mi) to its headwaters, and Storm Lake Creek from its confluence with Cable Creek upstream 17.5 km (10.9 mi) provide spawning and rearing habitat to support the Warm Springs population complex, as well as provide for the recovered distribution of bull trout (MBTSG 1995e; USFWS 2002).

(v) Priest Lakes and River CHSU

The Priest Lakes and River CHSU includes the entire drainage of the Priest River upstream from Priest Lake Dam, including Priest and Upper Priest lakes, in Boundary and Bonner counties, Idaho. The extreme headwaters lie in British Columbia, Canada, and the headwaters of several west side drainages are in the State of Washington. A total of 267 km (430 mi) of 19 streams and 9,970 ha (24,636 ac) of lake surface area in Priest and Upper Priest lakes is proposed for designation as critical habitat for bull trout.

Landownership along the streams is approximately 58 percent Federal, 33 percent State, and 9 percent private. Landownership along the lake shores has not been quantified, but Priest Lake is approximately 75 percent private land, or leased State or Federal land with cabins and home sites. The rest is undeveloped National Forest, as is the entire shoreline of Upper Priest Lake.

(A) The Upper Priest River from a waterfall approximately 1.0 km (0.6 mi) downstream of the border between Idaho and Canada upstream 31.6 km (19.6 mi) to the confluence with Upper Priest Lake; Rock Creek from the confluence with the Upper Priest River upstream 6.1 km (3.8 mi) to its headwaters; Lime Creek from the confluence with the Upper Priest River upstream 6.4 km (4.0 mi) to its headwaters; and Cedar Creek from the confluence with the Upper Priest River upstream 6.8 km (4.2 mi) to its headwaters provide spawning and rearing habitat for adfluvial bull trout inhabiting Upper Priest Lake (PBTTAT 1998b; USFWS 2002).

(B) Hughes Fork from the confluence with the Upper Priest River upstream 22.7 km (14.1 mi) to its headwaters, and Gold Creek from the confluence with Hughes Fork upstream 12.6 km (7.8 mi) to its headwaters provide spawning and rearing habitat for adfluvial bull trout inhabiting Upper Priest Lake (Hughes Fork local population) (PBTTAT 1998b; USFWS 2002).

(C) Upper Priest Lake (542 ha (1,338 ac)) provides FMO habitat supporting the Upper Priest Lake, Hughes Fork, and Trapper Creek local populations of bull trout (PBTTAT 1998b).

(D) Trapper Creek from the confluence with Upper Priest Lake upstream 12.7 km (7.9 mi) to its headwaters provides spawning and rearing habitat for the Trapper Creek local population (PBTTAT 1998b; USFWS 2002).

(E) Priest River Thorofare, a 4.3 km (2.7 mi) channel between Upper Priest and Priest Lakes provides FMO habitat connecting bull trout populations in the Priest Lakes basin. Priest Lake (9,429 ha (23,300 ac)) provides FMO habitat for dwindling numbers of adfluvial bull trout that spawn and rear in the lake's tributaries (Pratt and Huston 1993).

(F) Lion Creek from the confluence with Priest Lake upstream 18.2 km (11.3 mi) to its headwaters, and South Fork Lion Creek from its confluence with Lion Creek upstream 8.0 km (5.0 mi) to its headwaters contain spawning and rearing habitat for the Lion Creek local population of bull trout (PBTTAT 1998b; USFWS 2002).

(G) Two Mouth Creek from the confluence with Priest Lake upstream 15.7 km (9.8 mi) to its headwaters provides spawning and rearing habitat for the Two Mouth Creek local population (PBTTAT 1998b; USFWS 2002).

(H) Granite Creek from the confluence with Priest Lake upstream 17.8 km (11.1 mi) to its forks, South Fork Granite Creek from the confluence with Granite

Creek upstream 22.6 km (14.0 mi) to its headwaters, and North Fork Granite Creek from the confluence with Granite Creek upstream 18.9 km (11.8 mi) to its headwaters provide spawning and rearing habitat for the Granite Creek local population of bull trout (PBTAT 1998b; USFWS 2002).

(I) Indian Creek from the confluence with Priest Lake upstream 5.2 km (3.2 mi) to its forks, South Fork Indian Creek from its mouth upstream 5.8 km (3.6 mi) to its headwaters, and North Fork Indian Creek from its mouth upstream 11.7 km (7.3 mi) to its headwaters provide spawning and rearing habitat for the Indian Creek local population of bull trout (PBTAT 1998b; USFWS 2002).

(J) Kalispell Creek from the confluence with Priest Lake upstream 23.3 km (14.5 mi) to its headwaters provides spawning and rearing habitat for the Kalispell Creek local population of bull trout (PBTAT 1998b; USFWS 2002).

(K) Soldier Creek from the confluence with Priest Lake upstream 23.3 km (14.5 mi) to its headwaters provides spawning and rearing habitat for the Soldier Creek local population of bull trout (PBTAT 1998b; USFWS 2002).

(vi) Flathead Lake, Flathead River, and 20 Headwater Lakes CHSU

The Flathead Lake CHSU includes the entire Flathead River basin upstream from Kerr Dam (outlet of Flathead Lake), with the exception of the Swan River drainage upstream from Bigfork Dam, and the South Fork Flathead River drainage upstream from Hungry Horse Dam in Flathead and Lake counties, Montana. Flathead Lake is the largest natural freshwater lake west of the Mississippi River in the United States. Twenty other natural glaciated lakes up to 2,800 ha (6,919 ac) in size are occupied by bull trout in this CHSU. The entire south half of Flathead Lake is inside the boundaries of the Flathead Indian Reservation, and falls under the jurisdiction of the Confederated Salish and Kootenai Tribes. A total of 837 km (520 mi) of 57 streams and 56,838 ha (140,449 ac) of lake surface area in 21 lakes is proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams is approximately 68 percent Federal, 10 percent State, and 22 percent private. Substantial portions of the Federal lands are in Glacier National Park or Congressionally designated wilderness. Lakeshore ownership is mixed: Flathead Lake (49,575 ha (20,062 ac)) makes up about 87 percent of the lake surface area. The south half of Flathead Lake lies on the Flathead Indian Reservation, though most of the

lakeshore is privately owned and developed. The north half of Flathead Lake is also almost entirely private and developed into homes and resorts. Fifteen of the other lakes (5,556 ha (13,729 ac)) are in Glacier National Park, though road and campground development exists on most of the larger lakes, and commercial development and some private land occurs along Lake McDonald. The shoreline of 1,356 ha (3,350 ac) Whitefish Lake is almost entirely private and developed. Of the remaining four lakes, three (Upper Whitefish, Upper Stillwater, and Cyclone) are primarily surrounded by State lands that have been logged, but not developed. Only one very small lake, Frozen Lake (12 ha (30 ac)) which spans the International Border with Canada, is located on National Forest land.

(A) The entire basin of Flathead Lake, to the high water mark (49,574 ha (122,500 ac)) provides FMO habitat for tributary populations of bull trout (Fraley and Shepard 1989).

(B) The Flathead River from its confluence with Flathead Lake upstream 85.4 km (53.1 mi) to its forks; the Middle Fork Flathead River from its mouth upstream 140.3 km (87.2 mi) to its headwaters; and the North Fork Flathead River from its mouth upstream 92.9 km (57.7 mi) to the Canadian border provide FMO habitat for multiple local populations of bull trout (MBTSG 1995c; USFWS 2002).

(C) Nyack Creek from its confluence with the Middle Fork Flathead River upstream 11.4 km (7.1 mi) to a naturally de-watered reach provides spawning and rearing habitat for the Nyack Creek local population (MBTSG 1995c; USFWS 2002).

(D) Park Creek from its confluence with the Middle Fork Flathead River upstream 13.7 km (8.5 mi) to the confluence with its' tributary Elk Creek provides spawning and rearing habitat for the Park Creek local population (MBTSG 1995c; USFWS 2002).

(E) Ole Creek from its confluence with the Middle Fork Flathead River upstream 12.6 km (7.9 mi) to a naturally de-watered reach near the trail junction, just upstream of Debris Creek, provides spawning and rearing habitat for the Ole Creek local population (MBTSG 1995c; USFWS 2002).

(F) Bear Creek from its confluence with the Middle Fork Flathead River upstream 17.7 km (11.0 mi) to a barrier at the junction of Skyland Creek provides spawning and rearing habitat for the Bear Creek local population (MBTSG 1995c; USFWS 2002).

(G) Long Creek from its confluence with the Middle Fork Flathead River

upstream approximately 8.0 km (5.0 mi) provides spawning and rearing habitat for the Long Creek local population (MBTSG 1995c; USFWS 2002).

(H) Granite Creek from its confluence with the Middle Fork Flathead River upstream 13.1 km (8.1 mi) to its headwaters provides spawning and rearing habitat for the Granite Creek local population (MBTSG 1995c; USFWS 2002).

(I) Morrison Creek from its confluence with the Middle Fork Flathead River upstream 19.8 km (12.3 mi) to the junction with Puzzle Creek; Puzzle Creek from its mouth upstream 4.4 km (2.7 mi) to its headwaters, Lodgepole Creek from its confluence with Morrison Creek upstream 3.1 km (1.9 mi) to its junction with Whistler Creek; and Whistler Creek from its mouth upstream 5.9 km (3.7 mi) to its headwaters provide spawning and rearing habitat for the Morrison Creek local population (MBTSG 1995c; USFWS 2002).

(J) Schafer Creek from its confluence with the Middle Fork Flathead River upstream 5.9 km (3.7 mi) to a natural barrier near the confluence of Rouge Creek, and Dolly Varden Creek from its junction with Schafer Creek upstream 12.1 km (7.5 mi) to Dolly Varden Falls near the confluence of Argosy Creek provide spawning and rearing habitat for the Schafer Creek local population (MBTSG 1995c; USFWS 2002).

(K) Clack Creek from its confluence with the Middle Fork Flathead River upstream 3.9 km (2.4 mi) to a natural barrier approximately one-third the distance up its watershed near the trail junction to Trilobite Lakes provides spawning and rearing habitat for the Clack Creek local population (MBTSG 1995c; USFWS 2002).

(L) Bowl Creek from its confluence with the Middle Fork Flathead River upstream 7.9 km (4.9 mi) to the junction with Basin Creek; Basin Creek from its mouth upstream 10.0 km (6.2 mi) to a natural barrier in its upper reaches; and Scalp Creek from its confluence with Bowl Creek upstream 4.6 km (2.8 mi) to its headwaters provide spawning and rearing habitat for the Bowl Creek local population (MBTSG 1995c; USFWS 2002).

(M) Strawberry Creek from its confluence with the Middle Fork Flathead River upstream 21.2 km (13.2 mi) to its headwaters; Trail Creek from its junction with Strawberry Creek upstream 7.3 km (4.6 mi) to the junction with Jeff Creek; Gateway Creek from its confluence Strawberry Creek upstream 9.3 km (5.8 mi) to its headwaters; and East Fork Strawberry Creek from its confluence Strawberry Creek upstream 5.7 km (3.5 mi) to its headwaters

provide spawning and rearing habitat for the Strawberry Creek local population (MBTSG 1995c; USFWS 2002).

(N) Big Creek from its confluence with the North Fork Flathead River upstream 18.4 km (11.4 mi) to a natural barrier in the headwaters upstream from Nicola Creek; Skookoleel Creek from its confluence with Big Creek upstream 8.2 km (5.1 mi) to its headwaters; Hallowat Creek from its mouth at Big Creek upstream 14.8 km (9.2 mi) to its headwaters; Werner Creek from its mouth at Hallowat Creek upstream 4.0 km (2.5 mi) to its headwaters; and Kletomus Creek from its mouth at Hallowat Creek upstream 8.2 km (5.1 mi) to its headwaters provide spawning and rearing habitat for the Big Creek local population (MBTSG 1995c; USFWS 2002).

(O) Coal Creek from its confluence with the North Fork Flathead River upstream 28.5 km (17.7 mi) to its headwaters; Cyclone Creek from its confluence with Coal Creek upstream 5.0 km (3.1 mi) to Cyclone Lake; South Fork Coal Creek from its mouth upstream 10.2 km (6.4 mi) to a natural barrier; and Mathias Creek from its mouth at South Fork Coal Creek upstream 4.6 km (2.9 mi) to a natural barrier provide spawning and rearing habitat for the Coal Creek local population (MBTSG 1995c; USFWS 2002). Approximately 1.0 km (0.6 mi) of Cyclone Creek downstream from Cyclone Lake may also provide spawning and rearing habitat for the Cyclone Lake local population (MBTSG 1995c).

(P) Cyclone Lake (49 ha (121 ac)) provides FMO habitat, and Cyclone Creek from its confluence with Cyclone Lake upstream 8.6 km (5.4 mi) to its headwaters provides spawning and rearing habitat for the Cyclone Creek local population (USFWS 2002).

(Q) Red Meadow Creek from its confluence with the North Fork Flathead River upstream 22.3 km (13.9 mi) to its source at Red Meadow Lake provides spawning and rearing habitat for the Red Meadow Creek local population (MBTSG 1995c; USFWS 2002).

(R) Whale Creek from its confluence with the North Fork Flathead River upstream 23.0 km (14.3 mi) to Whale Creek Falls upstream from Shorty Creek; Shorty Creek from its confluence with Whale Creek upstream 4.4 km (2.7 mi) to the junction of South Fork Shorty Creek; and South Fork Shorty Creek upstream 1.6 km (1.0 mi) to a natural barrier near an unnamed tributary originating in Stoney Basin Lake provide spawning and rearing habitat

for the Whale Creek local population (MBTSG 1995c; USFWS 2002).

(S) Trail Creek from its confluence with the North Fork Flathead River upstream 13.3 km (8.3 mi) to a natural barrier near the junction of Thoma Creek provides spawning and rearing habitat for the Trail Creek local population (MBTSG 1995c; USFWS 2002).

(T) Whitefish Lake (1,356 ha (3,351 ac)) provides FMO habitat for the depressed Whitefish Lake local population. Swift Creek from Whitefish Lake upstream 26.5 km (16.5 mi) to the junction of its East and West Forks provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches. West Fork Swift Creek from its mouth upstream 13.7 km (8.5 mi) to its headwaters provides spawning and rearing habitat for this local population (MBTSG 1995c; USFWS 2002).

(U) Upper Whitefish Lake (36 ha (89 ac)) provides FMO habitat for the Upper Whitefish Lake local population. East Fork Swift Creek from its confluence with Upper Whitefish Lake upstream 9.5 km (5.9 mi) to its headwaters provides spawning and rearing habitat.

(V) Upper Stillwater Lake (225 ha (556 ac)) provides FMO habitat for the Stillwater Lake local population. The Stillwater River from its mouth at the lake upstream 35.3 km (21.9 mi) to its headwaters provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches. Fitzsimmons Creek from its junction with the Stillwater River upstream 9.4 km (5.9 mi) to its headwaters provides spawning and rearing habitat (MBTSG 1995c; USFWS 2002).

(W) Lake McDonald (2,761 ha (6,823 ac)) provides FMO habitat, and its tributary McDonald Creek upstream 2.6 km (1.6 mi) from the mouth to McDonald Falls provides spawning and rearing habitat for the depressed McDonald Creek local population of bull trout (MBTSG 1995c; USFWS 2002).

(X) Lincoln Lake (16 ha (40 ac)) provides FMO habitat, and Lincoln Creek from its mouth upstream 0.8 km (0.5 mi) to Beaver Chief Falls provides spawning and rearing habitat for the Lincoln Creek local population (MBTSG 1995c; USFWS 2002).

(Y) Harrison Lake (166 ha (410 ac)) provides FMO habitat, and its tributary Harrison Creek from the mouth upstream 6.9 km (4.3 mi) to its headwaters provides spawning and rearing habitat for the Harrison Creek local population (MBTSG 1995c; USFWS 2002).

(Z) Lake Isabel (17 ha (42 ac)) provides FMO habitat and its tributary Park Creek from the mouth upstream 1.4 km (0.9 mi) to its headwaters provides spawning and rearing habitat for the Park Creek local population (MBTSG 1995c; USFWS 2002).

(AA) Trout Lake (86 ha (213 ac)) and Arrow Lake (23 ha (57 ac)) provide FMO habitat, and Camas Creek between Trout and Arrow lakes (approximately 2.1 km (1.3 mi)), as well as upstream of Arrow Lake 4.1 km (1.3 mi) to Camas Lake provide spawning and rearing habitat for the Camas Creek local population (MBTSG 1995c; USFWS 2002).

(BB) Logging Lake (444 ha (1,097 ac)) provides FMO habitat, and its tributary Logging Creek from its junction with the upstream (east) end of the lake upstream 1.8 km (1.1 mi) to the outlet of Grace Lake provides spawning and rearing habitat for the Logging Creek local population (MBTSG 1995c; USFWS 2002).

(CC) Lower Quartz (67 ha (166 ac)) and the Upper Quartz Lakes Complex (Middle Quartz Lake, Quartz Lake, and Cerulean Lake; 399 ha (986 ac) combined) provide FMO habitat. Quartz Creek from the inlet of Lower Quartz Lake upstream 1.5 km (0.9 mi) to Middle Quartz Lake; Quartz Creek from the inlet of Middle Quartz Lake upstream 7.9 km (4.9 mi) to Quartz Lake; and Rainbow Creek from its confluence with Quartz Creek upstream 1.7 km (1.1 mi) to Cerulean Lake provide spawning and rearing habitat for the Quartz Creek local population (MBTSG 1995c; USFWS 2002).

(DD) Bowman Lake (690 ha (1,705 ac)) provides FMO habitat, and its tributary Bowman Creek from the inlet to Bowman Lake upstream 10.6 km (6.6 mi) to its headwaters provides spawning and rearing habitat for the Bowman Creek local population (MBTSG 1995c; USFWS 2002).

(EE) Akokala Lake (9 ha (23 ac)) provides FMO habitat, and its tributary Akokala Creek upstream 1.4 km (0.9 mi) from the lake inlet to its headwaters provides spawning and rearing habitat for the Akokala Creek local population (MBTSG 1995c; USFWS 2002).

(FF) Kintla Lake (687 ha (1,698 ac)) provides FMO habitat and Kintla Creek from its inlet to Kintla Lake upstream 2.6 km (1.6 mi) to a natural barrier provides spawning and rearing habitat for the Kintla Creek local population (MBTSG 1995c; USFWS 2002).

(GG) Upper Kintla Lake (191 ha (472 ac)) provides FMO habitat and Kintla Creek from the inlet to Upper Kintla Lake upstream 9.4 km (5.9 mi) to its headwaters provides spawning and rearing habitat for the Upper Kintla

Creek local population (MBTSG 1995c; USFWS 2002).

(HH) Frozen Lake (12 ha (30 ac)) provides FMO habitat, and Frozen Creek from the lake inlet upstream 4.2 km (2.6 mi) to its headwaters provides spawning and rearing habitat for the Frozen Creek local population (MBTSG 1995c; USFWS 2002).

(vii) Swan CHSU

The Swan CHSU includes the entire Swan River drainage upstream from Bigfork Dam (near the Swan River's confluence with Flathead Lake) in Lake and Missoula counties, Montana. The Swan CHSU is a linear valley bounded by the Swan Range to the west and the Mission Mountains to the east. A total of 212 km (132 mi) of 17 streams and 1,543 ha (3,813 ac) of lake surface area in three lakes is proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams is approximately 36 percent Federal, 17 percent State, and 47 percent private. The Swan Lake shoreline is about half private, with extensive home and resort developments, and half surrounded by either National Forest or National Wildlife Refuge lands. Holland Lake is on National Forest land, some of which is leased and developed. Lindbergh Lake is mostly surrounded by National Forest, but a portion of the lakeshore is developed with home sites.

(A) Swan Lake (1,085 ha (2,680 ac)) provides FMO habitat for upstream tributary populations of bull trout (MBTSG 1996b). The Swan River from its upstream inlet to Swan Lake upstream approximately 87.4 km (54.3 mi) provides FMO habitat for tributary populations of bull trout to the confluence with Lindbergh Lake, and provides spawning and rearing habitat above Lindbergh Lake.

(B) Lost Creek from the confluence with the Swan River upstream 2.8 km (1.7 mi) to the junction of the North and South Forks; North Fork Lost Creek from its mouth upstream 7.6 km (4.7 mi) to a barrier falls; and South Fork Lost Creek from its mouth upstream 7.3 km (4.6 mi) to a barrier falls provide spawning and rearing habitat for the Lost Creek local population of bull trout (MBTSG 1996b; USFWS 2002).

(C) Soup Creek from the confluence with the Swan River upstream 11.1 km (6.9 mi) to a natural barrier falls provides spawning and rearing habitat for the Soup Creek local population (MBTSG 1996b; USFWS 2002).

(D) Woodward Creek from the confluence with the Swan River upstream 6.0 km (3.7 mi) to a barrier falls on the northernmost fork, and

South Fork Woodward Creek from its junction with Woodward Creek upstream 4.7 km (2.9 mi) to a point where the stream makes a hard turn from its southerly direction to a westerly direction provide spawning and rearing habitat for the Woodward Creek local population (MBTSG 1996b; USFWS 2002).

(E) Goat Creek from the confluence with the Swan River upstream 11.5 km (7.2 mi) to the confluence with Bethal Creek and Squeezer Creek from its junction with Goat Creek upstream 8.6 km (5.3 mi) to a barrier falls provide spawning and rearing habitat for the Goat Creek local population (MBTSG 1996b; USFWS 2002).

(F) Lion Creek from its confluence with the Swan River upstream 11.4 km (7.1 mi) to a natural barrier falls approximately half way up the drainage provides spawning and rearing habitat for the Lion Creek local population (MBTSG 1996b; USFWS 2002).

(G) Piper Creek from its confluence with the Swan River upstream 5.9 km (3.7 mi) to the junction with Moore Creek provides spawning and rearing habitat for the Piper Creek local population (MBTSG 1996b; USFWS 2002).

(H) Jim Creek from its confluence with the Swan River upstream 11.9 km (7.4 mi) to the lowermost Jim Lake provides spawning and rearing habitat for the Jim Creek local population.

(I) Cold Creek from its confluence with the Swan River upstream 10.0 km (6.2 mi) to the junction with North Fork Cold Creek provides spawning and rearing habitat for the Cold Creek local population (MBTSG 1996b; USFWS 2002).

(J) Elk Creek from its confluence with the Swan River upstream 16.9 km (10.5 mi) to the confluence of the North and South Fork Elk Creek provides spawning and rearing habitat for the Elk Creek local population (MBTSG 1996b; USFWS 2002).

(K) Lindbergh Lake (293 ha (725 ac)) provides FMO habitat; approximately 6 km (3.8 mi) of the upper Swan River (previously described in (a), above), and Crystal Creek from its confluence with the upper Swan River upstream approximately 1 km (0.6 mi) to a natural barrier downstream from the outlet of Crystal Lake provide spawning and rearing habitat for the Upper Swan River local population (MBTSG 1996b; USFWS 2002).

(L) Holland Lake provides FMO habitat, and Holland Creek upstream 0.6 km (0.4 mi) from Holland Lake to a natural barrier falls provides spawning and rearing habitat for the Holland

Creek local population (MBTSG 1996b; USFWS 2002).

(viii) Hungry Horse Reservoir CHSU

The Hungry Horse Reservoir CHSU includes the entire South Fork Flathead River drainage upstream from Hungry Horse Dam (9.0 km (5.6 mi) upstream from the South Fork's confluence with the mainstem Flathead River) in Flathead, Missoula, Powell, and Lewis and Clark counties, Montana. A total of 336 km (209 mi) of 16 streams; 9,632 ha (23,800 ac) Hungry Horse Reservoir; and two lakes (Big Salmon Lake, 324 ha (800 ac)); Doctor Lake, 32 ha (79 ac) are proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams and lake shores is entirely Federal (100 percent), lying in either National Forest or Congressionally designated wilderness.

(A) Hungry Horse Reservoir (9,632 ha (23,800 ac)) and the South Fork Flathead River upstream 93.6 km (58.2 mi) from the full pool level of Hungry Horse Reservoir to its source at the confluence of Youngs and Danaher creeks provide critical FMO habitat for tributary spawning populations of bull trout (MBTSG 1995d).

(B) Wounded Buck Creek from its mouth at Hungry Horse Reservoir upstream 6.0 km (3.7 mi) to a natural barrier falls in the upper reaches of the drainage provides spawning and rearing habitat for the Wounded Buck Creek local population of bull trout (MBTSG 1995d; USFWS 2002).

(C) Wheeler Creek from its mouth at Hungry Horse Reservoir upstream 5.9 km (3.6 mi) to a natural barrier falls just upstream of the junction of Trapper Creek provides spawning and rearing habitat for the Wheeler Creek local population of bull trout (MBTSG 1995d; USFWS 2002).

(D) Sullivan Creek from its mouth at Hungry Horse Reservoir upstream 24.0 km (14.9 mi) to its headwaters and its tributary Quintonkon Creek from its mouth upstream 5.2 km (3.3 mi) to a natural barrier falls approximately half way up the drainage provide spawning and rearing habitat for the Sullivan Creek local population of bull trout (MBTSG 1995d; USFWS 2002).

(E) The Spotted Bear River from its confluence with the South Fork Flathead River upstream 32.8 km (20.4 mi) to Dean Falls, just upstream from the confluence of Slim Creek, provides spawning and rearing habitat for the Spotted Bear River local population (MBTSG 1995d; USFWS 2002).

(F) Bunker Creek from its confluence with the South Fork Flathead River upstream 17.9 km (11.1 mi) to a barrier



falls just upstream of the junction with String Creek provides spawning and rearing habitat for the Bunker Creek local population (MBTSG 1995d; USFWS 2002).

(G) Little Salmon Creek from its confluence with the South Fork Flathead River upstream 28.7 km (17.8 mi) to its source provides spawning and rearing habitat for the Little Salmon Creek local population (MBTSG 1995d; USFWS 2002).

(H) Big Salmon Lake (324 ha (800 ac)) provides FMO habitat, and Big Salmon Creek upstream 7.4 km (4.6 mi) from Big Salmon Lake to a barrier falls just upstream from the junction of Spud Creek provides spawning and rearing habitat for the Big Salmon Creek local population (MBTSG 1995d; USFWS 2002).

(I) The White River from its confluence with the South Fork Flathead River upstream 13.1 km (8.1 mi) to Needle Falls (approximately 3 km (1.9 mi) upstream from the junction of the South Fork White River) provides spawning and rearing habitat for the White River local population (MBTSG 1995d; USFWS 2002).

(J) Gordon Creek from its confluence with the South Fork Flathead River upstream 23.4 km (14.5 mi) to a barrier falls near the confluence with George Creek provides spawning and rearing habitat for the Gordon Creek local population (MBTSG 1995d; USFWS 2002).

(K) Doctor Lake 32 ha (79 ac) provides FMO habitat, and the entire length (5.2 km (3.3 mi)) of Doctor Creek occurring both upstream and downstream of Doctor Lake provides spawning and rearing habitat for the Doctor Creek local population (MBTSG 1995d; USFWS 2002).

(L) Youngs Creek from its confluence with the headwaters of the South Fork Flathead River upstream 28.7 km (17.8 mi) to the junction of Ross Creek near its headwaters, and Babcock Creek (a tributary to Youngs Creek) from its mouth upstream 7.3 km (4.5 mi) to the confluence with Otis Creek provide spawning and rearing habitat for the Youngs Creek local population (MBTSG 1995d; USFWS 2002).

(M) Danaher Creek from its confluence with the headwaters of the South Fork Flathead River upstream 33.5 km (20.8 mi) to its source, and Rapid Creek (a tributary to Danaher Creek) from its mouth upstream 2.9 km (1.8 mi) to the confluence of Fiction Creek provide spawning and rearing habitat for the Danaher Creek local population (MBTSG 1995d; USFWS 2002).

#### (ix) Bitterroot CHSU

The Bitterroot CHSU includes the entire Bitterroot River drainage on the western border of Montana, upstream from its' confluence with the Clark Fork River in Missoula and Ravalli counties, Montana. A total of 799 km (496 mi) of 43 streams and 265 ha (655 ac) of Painted Rocks Reservoir is proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams is approximately 64 percent Federal, 1 percent State, and 35 percent private. Painted Rocks Reservoir is mostly on National Forest with some private development. In this CHSU, nearly all headwaters are on National Forest lands, and the vast majority of the Bitterroot Valley, including lower ends of tributary drainages and the entire mainstem of the Bitterroot River are privately owned and extensively developed with ranches, home sites, and businesses.

(A) The Bitterroot River from its junction with the Clark Fork River upstream 135.8 km (84.3 mi) to the confluence of its East and West Forks provides FMO habitat for tributary populations of bull trout (MBTSG 1995a; USFWS 2002).

(B) Burnt Fork Creek from its confluence with the Bitterroot River upstream 41.2 km (25.6 mi) to its headwaters; Gold Creek from its mouth at Burnt Fork Creek upstream 10.8 km (6.7 mi) to its headwaters; and Little Burnt Fork Creek from its mouth upstream 5.5 km (3.4 mi) to its source provide spawning and rearing habitat for the Burnt Fork Creek local population (MBTSG 1995a; USFWS 2002).

(C) Fred Burr Creek from its confluence with the Bitterroot River upstream 14.3 km (8.9 mi) to Fred Burr Reservoir provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches. Its tributary Mill Creek, from its mouth upstream 19.5 km (12.1 mi) to a natural barrier just upstream of the Wilderness Boundary, provides spawning and rearing habitat supporting the Fred Burr Creek local population (MBTSG 1995a; USFWS 2002).

(D) Blodgett Creek from its confluence with the Bitterroot River upstream 30.7 km (19.0 mi) to its headwaters provides spawning and rearing habitat for the Blodgett Creek local population (MBTSG 1995a; USFWS 2002).

(E) Skalkaho Creek from its confluence with the Bitterroot River upstream 40.4 km (25.1 mi) to its headwaters; Daly Creek from its confluence with Skalkaho Creek upstream 12.2 km (7.6 mi) to Skalkaho

Falls; Railroad Creek from its confluence with Skalkaho Creek upstream 8.4 km (5.2 mi); and Weasel Creek from its confluence with Skalkaho Creek upstream 5.3 km (3.3 mi) to its source provide spawning and rearing habitat for the Skalkaho Creek local population (MBTSG 1995a; USFWS 2002).

(F) Sleeping Child Creek from its confluence with the Bitterroot River upstream 38.5 km (23.9 mi) to its headwaters; Two Bear Creek from its confluence with Sleeping Child Creek upstream 10.7 km (6.6 mi) to its source; Divide Creek from its confluence with Sleeping Child Creek upstream 14.8 km (9.2 mi) to its source; and Switchback Creek from its confluence with Divide Creek upstream 1.0 km (0.6 mi) to a natural barrier provide spawning and rearing habitat for the Sleeping Child Creek local population (MBTSG 1995a; USFWS 2002).

(G) The West Fork of the Bitterroot River from its confluence with the Bitterroot River upstream 35.2 km (21.9 mi) to Painted Rocks Reservoir and Painted Rocks Reservoir (265 ha (655 ac)) provide FMO habitat for tributary populations of bull trout. The West Fork of the Bitterroot River from Painted Rocks Reservoir upstream 27.9 km (17.3 mi); Slate Creek from the confluence with Painted Rocks Reservoir upstream 17.3 km (10.8 mi) to its source; Blue Joint Creek from the confluence with Painted Rocks Reservoir upstream 28.0 km (17.4 mi) to a natural barrier; Overwhich Creek from its confluence with the West Fork Bitterroot River upstream 23.2 km (14.4 mi) to a natural barrier; Straight Creek from its confluence with Overwhich Creek upstream 5.4 km (3.3 mi) to its headwaters; Hughes Creek from its confluence with the West Fork Bitterroot River upstream 28.4 km (17.6 mi) to its source; Chicken Creek from its confluence with the West Fork Bitterroot River upstream 8.2 km (5.1 mi) to its forks; Deer Creek from its confluence with the West Fork Bitterroot River upstream 20.1 km (12.5 mi) to its headwaters; Woods Creek from its confluence with the West Fork Bitterroot River upstream 11.0 km (6.8 mi) to its headwaters; Johnson Creek from its confluence with the West Fork Bitterroot River upstream 7.4 km (4.6 mi) to its source; Beaver Creek from its confluence with the West Fork Bitterroot River upstream 7.4 km (4.6 mi) to its source; and Sheep Creek from its confluence with the West Fork Bitterroot River upstream 5.0 km (3.1 mi) to its headwaters provide spawning and rearing habitat for the West Fork Bitterroot River population complex of



bull trout (MBTSG 1995a; USFWS 2002).

(H) The East Fork Bitterroot River from its mouth upstream 59.4 km (36.9 mi) provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches. Meadow Creek from its confluence with the East Fork Bitterroot River upstream 15.6 km (9.7 mi) to its headwaters; Swift Creek from its mouth on Meadow Creek upstream 3.2 km (2.0 mi) to a natural barrier falls; Bugle Creek from its confluence with Meadow Creek upstream 6.2 km (3.9 mi) to its source; Moose Creek from its confluence with the East Fork Bitterroot River upstream 10.6 km (6.6 mi) to a natural barrier; Martin Creek from its mouth on Moose Creek upstream 18.8 mi (11.7 mi) to its headwaters; Bush Creek from its confluence with Martin Creek upstream 6.5 km (4.0 mi) to its source; Lick Creek from its junction with Moose Creek upstream 5.9 km (3.6 mi) to its headwaters; Reynolds Creek from its junction with Moose Creek upstream 6.4 km (4.0 mi) to its source; Sign Creek from its junction with Moose Creek upstream 4.2 km (2.6 mi) to its source; and Buck Creek from its confluence with the East Fork Bitterroot River upstream 1.6 km (1.0 mi) to its headwaters provide spawning and rearing habitat for the East Fork Bitterroot River population complex of bull trout (MBTSG 1995a; USFWS 2002).

(I) Warm Springs Creek from its confluence with the East Fork Bitterroot River upstream 19.3 km (12.0 mi); Fire Creek from its confluence with Warm Springs Creek upstream 2.4 km (1.5 mi); Wiles Creek from its confluence with Warm Springs Creek upstream 8.8 km (5.5 mi) to its source; Fault Creek from its mouth at Wiles Creek upstream 5.3 km (3.3 mi) to its source; Porcupine Creek from its junction with Warm Springs Creek upstream 7.2 km (4.5 mi); and Prayer Creek from its junction with Warm Springs Creek upstream 4.4 km (2.7 mi) provide spawning and rearing habitat for the Warm Springs Creek local population of bull trout (MBTSG 1995a; USFWS 2002).

(x) Blackfoot River CHSU

The Blackfoot River CHSU includes the entire Blackfoot River drainage in western Montana in Missoula, Powell, and Lewis and Clark counties, with the exception of its tributaries in the Clearwater River CHSU. A total of 436 km (270 mi) of 12 streams is proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams proposed for designation as critical habitat is

approximately 34 percent Federal, 8 percent State, and 58 percent private.

(A) The Blackfoot River from its confluence with the Clark Fork River at Milltown upstream 191.0 km (118.7 mi) to the confluence of Alice Creek provides FMO habitat for tributary populations of bull trout (MBTSG 1995b).

(B) Gold Creek from its junction with the Blackfoot River upstream 19.4 km (12.1 mi) to a barrier falls near the National Forest boundary; the West Fork of Gold Creek from its mouth upstream 13.1 km (8.1 mi) to its headwaters; and Daisy Creek from its confluence with the West Fork of Gold Creek upstream 6.2 km (3.9 mi) to its source provide spawning and rearing habitat for the Gold Creek local population of bull trout (MBTSG 1995b; USFWS 2002).

(C) Belmont Creek from its junction with the Blackfoot River upstream 16.9 km (10.5 mi) to its source provides spawning and rearing habitat for the Belmont Creek local population of bull trout (MBTSG 1995b; USFWS 2002).

(D) Cottonwood Creek from its junction with the Blackfoot River upstream 23.8 km (14.8 mi) to its source at Cottonwood Lake provides spawning and rearing habitat for the Cottonwood Creek local population (MBTSG 1995b; USFWS 2002).

(E) Monture Creek from its junction with the Blackfoot River upstream 47.3 km (29.4 mi) to its headwaters; Dunham Creek from its confluence with Monture Creek upstream 23.3 km (14.4 mi) to its headwaters; and Lodgepole Creek from its junction with Dunham Creek upstream 11.7 km (7.2 mi) to its source provide spawning and rearing habitat for the Monture Creek local population (MBTSG 1995b; Pierce *et al.* 1997; USFWS 2002).

(F) The North Fork Blackfoot River from its confluence with the Blackfoot River upstream 41.0 km (25.5 mi) to a natural barrier at North Fork Falls provides spawning and rearing habitat for the North Fork Blackfoot River local population (MBTSG 1995b; Pierce *et al.* 1997; USFWS 2002).

(G) The Landers Fork from its confluence with the Blackfoot River upstream 17.9 km (11.2 mi) to a barrier falls near the junction of Byrnes Creek (just downstream from the Scapegoat Wilderness), and Copper Creek from its junction with Landers Fork upstream 24.0 km (14.9 mi) to its headwaters provide spawning and rearing habitat for the Landers Fork local population (MBTSG 1995b; Pierce *et al.* 1997; USFWS 2002).

(xi) Clearwater River and Lake Chain CHSU

The Clearwater River and Lake Chain CHSU includes the Clearwater River, a tributary to the Blackfoot River, drainage in Missoula and Powell counties, Montana. A total of 157 km (97 mi) of 9 streams, and 1,460 ha (3,608 ac) of lake surface area in seven lakes is proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams is approximately 51 percent Federal, 5 percent State, and 44 percent private.

(A) Salmon Lake (263 ha (650 ac)) provides FMO habitat for tributary populations of bull trout (MBTSG 1995b).

(B) The Clearwater River from its confluence with Salmon Lake upstream 39.1 km (24.3 mi) to its headwaters at Clearwater Lake provides habitat for bull trout. FMO habitat for tributary bull trout populations occurs below the confluence with the East Fork Clearwater River. Upstream from the junction with the East Fork Clearwater River spawning and rearing habitat for the Clearwater River local population complex of bull trout occurs (MBTSG 1995b; USFWS 2002).

(C) Owl Creek from its confluence with the Clearwater River upstream 6.6 km (4.1 mi) to its origin at Placid Lake, and Placid Lake (463 ha (187 ac)) provide FMO habitat for tributary populations. Placid Creek from its junction with Placid Lake upstream 17.1 km (10.7 mi) to its headwaters, and its tributary Finley Creek from its mouth upstream 8.3 km (5.2 mi) to its source provide spawning and rearing habitat for the Placid Creek local population of bull trout (MBTSG 1995b; USFWS 2002).

(D) Morrell Creek from its confluence with the Clearwater River upstream 29.4 km (18.2 mi) provides spawning and rearing habitat for the Morrell Creek local population of bull trout (MBTSG 1995b; USFWS 2002).

(E) Seeley Lake (415 ha (1,025 ac)) provides FMO habitat, and Deer Creek from its junction with Seeley Lake upstream 16.5 km (10.2 mi) to its headwater provides spawning and rearing habitat for the Deer Creek local population of bull trout (MBTSG 1995b; USFWS 2002).

(F) The West Fork Clearwater River from its confluence with the Clearwater River upstream 23.1 km (14.3 mi) to its headwaters provides FMO habitat in the lower reaches, and spawning and rearing habitat for the West Fork Clearwater River local population in the upper reaches (MBTSG 1995b; USFWS 2002).

(G) Lake Inez (119 ha (294 ac)), Lake Alva (121 ha (299 ac)), Rainy Lake (28 ha (69 ac)), and Clearwater Lake (51 ha (126 ac)) provide FMO habitat for tributary populations of bull trout (MBTSG 1995b).

(H) Colt Creek from its confluence with the Clearwater River upstream 8.8 km (5.4 mi) to its headwaters, and the East Fork Clearwater River from its confluence with the Clearwater River upstream 7.9 km (4.9 mi) provide spawning and rearing habitat for the Clearwater River local population complex (MBTSG 1995b; USFWS 2002).

(xii) Rock Creek CHSU

The Rock Creek CHSU includes the entire watershed of Rock Creek in Missoula and Granite counties, Montana, from its junction with the Clark Fork River to its headwaters. A total of 487 km (302 mi) of 28 streams are proposed for designation as critical habitat for bull trout in this CHSU. Landownership along the streams is approximately 73 percent Federal, 1 percent State, and 26 percent private.

(A) Rock Creek from its confluence with the Clark Fork River near the town of Clinton upstream 83.3 km (51.7 mi) to its forks provides FMO habitat for tributary populations of bull trout (MBTSG 1995e).

(B) Gilbert Creek from its confluence with Rock Creek upstream 13.5 km (8.4 mi) to its headwaters provides spawning and rearing habitat for the Gilbert Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(C) Brewster Creek from its confluence with Rock Creek upstream 11.4 km (7.1 mi) to its source provides spawning and rearing habitat for the Brewster Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(D) Ranch Creek from its confluence with Rock Creek upstream 16.8 km (10.4 mi) to its headwaters provides spawning and rearing habitat for the Ranch Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(E) Welcome Creek from its confluence with Rock Creek upstream 11.9 km (7.4 mi) to its source provides spawning and rearing habitat for the Welcome Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(F) Butte Cabin Creek from its confluence with Rock Creek upstream 10.2 km (6.3 mi) to its headwaters provides spawning and rearing habitat for the Butte Cabin Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(G) Wahlquist Creek from its confluence with Rock Creek upstream 7.5 km (4.7 mi) to its headwaters provides spawning and rearing habitat

for the Wahlquist Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(H) Cougar Creek from its confluence with Rock Creek upstream 7.7 km (4.8 mi) to its source provides spawning and rearing habitat for the Cougar Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(I) Hogback Creek from its confluence with Rock Creek upstream 7.3 km (4.5 mi) to its headwaters provides spawning and rearing habitat for the Hogback Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(J) Wyman Creek from its confluence with Rock Creek upstream 13.7 km (8.5 mi) to its headwaters provides spawning and rearing habitat for the Wyman Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(K) Stony Creek from its confluence with Rock Creek upstream 18.1 km (11.2 mi) to its source provides spawning and rearing habitat for the Stony Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(L) Upper Willow Creek from its confluence with Rock Creek upstream 31.2 km (19.4 mi) to its headwaters, and its tributary Beaver Creek from its mouth upstream 6.3 km (3.9 mi) to its source provide spawning and rearing habitat for the Upper Willow Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(M) West Fork Rock Creek from its confluence with Rock Creek upstream 38.4 km (23.9 mi) to its headwaters; North Fork Rock Creek from its confluence with West Fork Rock Creek upstream 7.8 km (4.8 mi) to its headwaters; Sand Basin Creek from its confluence with West Fork Rock Creek upstream 10.7 km (6.7 mi) to its source; and Bowles Creek from its confluence with West Fork Rock Creek upstream 6.8 km (4.2 mi) to its headwaters provide spawning and rearing habitat for the West Fork Rock Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(N) Ross Fork Rock Creek from its confluence with West Fork Rock Creek upstream 36.7 km (22.8 mi) to its headwaters; Moose Meadow Creek from its confluence with Ross Fork Rock Creek upstream 9.4 km (5.8 mi) to its source; and South Fork Ross Fork Rock Creek from its confluence with Ross Fork Rock Creek upstream 10.0 km (6.2 mi) to its headwaters provide spawning and rearing habitat for the Ross Fork Rock Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(O) East Fork Rock Creek from its confluence with Rock Creek upstream 25.8 km (16.0 mi) to its headwaters and Meadow Creek from its confluence with

East Fork Rock Creek upstream 7.9 km (4.9 mi) to a barrier cascade at the confluence of Dexter Creek provide spawning and rearing habitat for the East Fork Rock Creek local population of bull trout. East Fork Reservoir (170 ha (420 ac) at full pool) provides FMO habitat for this local population (MBTSG 1995e; USFWS 2002).

(P) Middle Fork Rock Creek from its confluence with East Fork Rock Creek upstream 38.3 km (23.8 mi) to its source; Copper Creek from its confluence with Middle Fork Rock Creek upstream 19.2 km (11.9 mi) to its headwaters; Green Canyon Creek from its confluence with Copper Creek upstream 6.1 km (3.8 mi) to its headwaters; Lutz Creek from its confluence with Copper Creek upstream 8.3 km (5.1 mi) to its headwaters; Meyers Creek from its confluence with Middle Fork Rock Creek upstream 8.2 km (5.1 mi); and Carpp Creek from its confluence with Middle Fork Rock Creek upstream 14.3 km (8.9 mi) provide spawning and rearing habitat for the Middle Fork Rock Creek local population of bull trout (MBTSG 1995e; USFWS 2002).

(7) Unit 3: Kootenai River Basin

The Kootenai unit is located upstream and downstream from Libby Dam, in Montana, on the Kootenai River. It includes the northwestern corner of Montana and the northeastern tip of the panhandle of Idaho. The Kootenai River has a unique configuration, entering the U.S. from British Columbia, Canada and then returning to British Columbia where it joins the upper Columbia River drainage. This unit includes two CHSUs: the Kootenai River and Bull Lake CHSU lies in Boundary County, Idaho and Lincoln County, Montana. The Lake Koocanusa and Sophie Lake CHSU lies in Lincoln County, Montana.

We are proposing to designate critical habitat for bull trout in portions of 27 streams, 2 lakes, and 1 reservoir in this unit. The total stream distance is about 528 km (328 mi) in Montana, and 95 km (59 mi) in Idaho, for a total of 623 km (387 mi). The lakes and reservoir have a surface coverage of about 19,418 ha (47,982 ac), about 97 percent of which is the Lake Koocanusa reservoir. Landownership associated with the proposed critical habitat designations in waterways includes approximately 53 percent Federal land, 44 percent private lands, and 3 percent State land. The Draft Recovery Plan (USFWS 2002) identified 10 local populations of bull trout in this unit as essential to recovery.

## (i) Kootenai River and Bull Lake CHSU

The Kootenai River and Bull Lake CHSU includes the entire Kootenai River drainage downstream from Libby Dam, and the Callahan Creek, O'Brien Creek, Quartz Creek, Pipe Creek, Libby Creek, Fisher River, and Keeler Creek local populations. The following stream segments are included in this CHSU.

(A) The Kootenai River from the Canadian border with Idaho upstream 184.2 km (114.4 mi) to Libby Dam provides FMO habitat.

(B) Callahan Creek from its confluence with the Kootenai River upstream 12.3 km (7.7 mi) to its headwaters provides spawning and rearing habitat. July Creek from its confluence with Callahan Creek upstream 1.6 km (1.0 mi) to its headwaters, Goat Creek from its confluence with Callahan Creek upstream 7.4 km (4.6 mi) to its headwaters, North Fork Callahan Creek from its confluence with Callahan Creek upstream 20.4 km (12.7 mi) to its headwaters, and South Fork Callahan Creek from its confluence with Callahan Creek upstream 19.6 km (12.2 mi) to its headwaters also provides spawning and rearing habitat for the Callahan Creek local population.

(C) O'Brien Creek from its confluence with the Kootenai River upstream 17.7 km (11.0 mi) to its headwaters provides spawning and rearing habitat for the O'Brien Creek local population.

(D) Quartz Creek from its confluence with the Kootenai River upstream 17.7 km (11.0 mi) to its headwaters, and West Fork Quartz Creek from its confluence with Quartz Creek upstream 10.0 km (6.2 mi) to its headwaters provide spawning and rearing habitat for the Quartz Creek local population.

(E) Pipe Creek from its confluence with the Kootenai River upstream 39.6 km (24.6 mi) to its headwaters, and East Fork Pipe Creek from its confluence with Pipe Creek upstream 13.5 km (8.4 mi) to its headwaters provide spawning and rearing habitat for the Pipe Creek local population.

(F) Libby Creek from its confluence with the Kootenai River upstream 48.1 km (29.9 mi) to its headwaters provides spawning and rearing habitat. Bear Creek from its confluence with Libby Creek upstream 13.2 km (8.2 mi) to its headwaters, Poorman Creek from its confluence with Libby Creek upstream 8.8 km (5.5 mi) to its headwaters, and Ramsey Creek from its confluence with Libby Creek upstream 9.7 km (6.0 mi) to its headwaters also provide spawning and rearing habitat for the Libby Creek local population.

(G) The Fisher River from its confluence with the Kootenai River

upstream 47.3 km (29.4 mi) provides FMO habitat. West Fisher Creek from its confluence with the Fisher River upstream 21.4 km (13.3 mi) provides spawning and rearing habitat for the Fisher River local population.

(H) Bull Lake and associated tributaries contain a bull trout population that is isolated from the Kootenai River by Troy Dam, built in 1917. This population is unusual in that the adult spawners run downstream from Bull Lake, using Lake Creek as a corridor to access spawning areas in Keeler Creek. Downstream spawning migration is uncommon amongst bull trout populations. Bull Lake 506 ha (1,250 ac) and Lake Creek, a tributary to Bull Lake upstream from the confluence 13.0 km (8.1 mi), provide FMO habitat. Keeler Creek from the confluence with Lake Creek upstream 13.4 km (8.3 mi), and North Fork Keeler Creek from the confluence with Keeler Creek upstream 10.6 km (6.6 mi) provide spawning and rearing habitat for the Bull Lake local population.

## (ii) Lake Koocanusa and Sophie Lake CHSU

This CHSU includes the entire Kootenai River drainage in Montana upstream from Libby Dam and includes the Grave Creek, Wigwam River, and Phillips Creek local populations. Fluvial populations of bull trout in the upper Kootenai watershed were converted to an adfluvial life history pattern by the addition of the large reservoir (Lake Koocanusa) behind Libby Dam, which backs up water some 69 km (43 mi) and into Canada.

(A) Lake Koocanusa, 18,818 ha (46,499 ac) in size of which most occurs within the United States, provides FMO habitat for the Grave Creek and Wigwam River local populations. The entire U.S. portion of the reservoir is proposed for designation as critical habitat for bull trout.

(B) The Tobacco River from its confluence with Lake Koocanusa upstream 21.7 km (13.5 mi) provides FMO habitat. Grave Creek from its confluence with the Tobacco River upstream 25.4 km (15.8 mi), Clarence Creek from its confluence with Grave Creek upstream 8.5 km (5.3 mi), and Blue Sky Creek from its confluence with Grave Creek upstream 2.1 km (1.3 mi) provide spawning and rearing habitat for the Grave Creek local population.

(C) The upper 7.1 km (4.4 mi) of the Wigwam River, which lies within the United States, provides spawning and rearing habitat for the Wigwam River local population.

(D) Sophie Lake, 94 ha (232 ac) in size, provides FMO habitat and Phillips

Creek, from the confluence with Sophie Lake upstream 5.5 km (3.4 mi), provides spawning and rearing habitat for the Phillips Creek local population. This population of migratory (adfluvial) bull trout are isolated in a closed basin, with no active outlet stream (MBTSG 1996e).

## (8) Unit 4: Willamette River Basin

The Willamette River Basin Unit includes 337 km (209 mi) of stream and 1,600 ha (3,954 ac) of lake habitat in the McKenzie River and Middle Fork Willamette River subbasins of western Oregon. The unit is located primarily within Lane County, but also extends into Linn County. Landownership within the CHSU is 46 percent Federal and 54 percent private. Currently, there are three known bull trout local populations in the McKenzie River subbasin, and one potential bull trout local population in the Middle Fork Willamette River subbasin. All four of these populations are identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). The stream segments that make up the Willamette River Unit are described below. With the exception of the mainstem Willamette River, the lower Middle Fork Willamette River, and Lost Creek, all segments proposed as critical habitat are currently occupied by bull trout, and all segments are essential to the conservation of the species, as they are essential to supporting populations that meet recovery criteria in the Draft Recovery Plan (USFWS 2002).

(i) The Willamette River from its confluence with the McKenzie River at rkm 282.0 (rmi 175.1) upstream 19 km (11.8 mi) to its confluence with the Middle Fork Willamette River at rkm 301.0 (187.0). This segment provides for the maintenance of the migratory life history form of bull trout that is essential to the long-term conservation of the species, and is essential for providing connectivity between the McKenzie River and Middle Fork Willamette River local populations.

(ii) The McKenzie River and side channels from its confluence with the Willamette River upstream 136 km (84.5 mi) to Trail Bridge Dam, including Trail Bridge Reservoir (23 ha (57 ac) at full pool), and continuing upstream beyond the reservoir for 3.2 km (2 mi) to Tamolitch Falls. Three bull trout local populations have been identified on the McKenzie River: (1) the Trail Bridge population includes the McKenzie River and tributaries above Trail Bridge Dam; (2) the McKenzie River population includes the McKenzie River and tributaries downstream of Trail Bridge Dam; and, (3) the South Fork McKenzie River population includes the South

Fork McKenzie River and tributaries above Cougar Dam. The following McKenzie River tributaries (and associated reservoirs) are included: the Blue River from its confluence with the McKenzie River upstream 2.8 km (1.7 mi) to Blue River Lake Dam; the South Fork McKenzie River from its confluence with the McKenzie River upstream 7.2 km (4.5 mi) to Cougar Reservoir, including Cougar Reservoir (560 ha (1,384 ac) at full pool), and continuing upstream beyond the reservoir for 25.6 km (15.9 mi) to the Three Sisters Wilderness Area boundary, and also extending 5 km (3.1 mi) up Roaring River; Horse Creek and West Fork Horse Creek for a total of 18.5 km (11.5 mi) from the confluence with the McKenzie River upstream to Separation Creek, including side channels, and extending 3.1 km (2 mi) up Separation Creek; Lost Creek from its confluence with the McKenzie River upstream 5.8 km (3.6 mi) to a headwater spring; Deer Creek from its confluence with the McKenzie River upstream for a distance of 4.6 km (2.9 mi); Olallie Creek from its confluence with the McKenzie River upstream 3.2 km (2 mi) to a natural barrier; Anderson Creek from its confluence with the McKenzie River upstream 2.6 km (1.6 mi) to a natural barrier; and Sweetwater Creek from its inlet to Trail Bridge Reservoir upstream 1.9 km (1.2 mi) to a natural barrier.

(iii) The Middle Fork Willamette River from its confluence with the Willamette River upstream 48 km (29.9 mi) to Hills Creek Reservoir and including Dexter Reservoir (343 ha (848 ac)), Lookout Point Reservoir (1,617 ha (3,996 ac)), and Hills Creek Reservoir (1,060 ha (2,619 ac) at full pool), and continuing upstream from Hills Creek Reservoir for 32.2 km (20 mi) to the Paddy's Valley/Chuckle Springs area. Bull trout currently occur in the upper portion of the Middle Fork Willamette River as a result of transplanted fry from Anderson Creek in the McKenzie River, and this is considered a rehabilitated local population. The following Middle Fork tributaries are included: Swift Creek from its confluence with the Middle Fork Willamette River upstream 14.7 km (9.1 mi) to its headwaters; and Bear Creek from its confluence with Swift Creek upstream 3.2 km (2 mi).

#### (9) Unit 5: Hood River Basin

The Hood River unit includes the mainstem Hood River and three major tributaries: the Clear Branch Hood River, West Fork Hood River, and East Fork Hood River. A total of 178.0 km (110.3 mi) of stream, representing 21 percent of the total stream lengths in

this unit, is proposed for critical habitat. Although the recovery unit includes the Sandy River, which is known to be occupied based on recent sightings, there is insufficient information at present to identify local populations, or describe bull trout habitat use in the Sandy River subbasin; therefore no critical habitat is proposed for designation in this subbasin. Portions of the mainstem Columbia River utilized by Hood River bull trout are considered in the mainstem Columbia River section of this document.

The Hood River unit, located on the western slopes of the Cascades Mountains in northwest Oregon, lies entirely within Hood River County, Oregon. Landownership adjacent to stream reaches proposed for critical habitat within the Hood River unit includes: 48 percent Federal land, 1 percent State land, and 51 percent private land. Currently, there are two local populations (Clear Branch Hood River above Clear Branch Dam, and Hood River and tributaries below Clear Branch Dam) identified as essential to recovery (USFWS 2002). Also identified are two additional areas (West Fork Hood River and East Fork Hood River), where additional local populations essential for bull trout recovery are recommended to be established. Presently, bull trout in the Hood River basin are believed to be at substantial risk, numbering less than 300 adult fish, emphasizing the need to establish additional local populations (USFWS 2002).

(i) Hood River from the Columbia River upstream 23.7 km (14.7 mi) to its confluence with the east and middle forks provides FMO habitat as well as connectivity with the mainstem Columbia River.

(ii) West Fork Hood River from the Hood River confluence upstream 23.2 km (14.4 mi) to the confluence with Elk and McGee creeks provides FMO habitat. Current occupancy is confirmed from sightings at the fish ladder on Punchbowl Falls and from trap information (USFWS 2002). This habitat is essential for establishing additional reproducing local population(s) in the west fork (and east fork), which is essential to the long-term conservation of the species (USFWS 2002).

(iii) Lake Branch Hood River from the confluence with the west fork upstream 4.2 km (2.6 mi) to the confluence with Laurel Creek. Establishing additional local population(s) in the west and east fork is identified as an action necessary to achieve recovery (USFWS 2002). Lake Branch would serve as FMO habitat linking Laurel and Divers creeks, both of which were identified in U.S. Forest

Service (USFS1996a) as having suitable water temperatures to provide spawning habitat. Divers Creek from the Lake Branch confluence upstream approximately 5.6 km (3.5 mi) to its headwaters is essential to provide spawning habitat to support additional local populations necessary to achieve recovery, as identified in the Draft Recovery Plan (USFWS 2002). Laurel Creek from the Lake Branch confluence upstream approximately 5.8 km (3.6 mi) to its headwaters is essential to provide potential spawning habitat for supporting additional local populations in this unit (USFWS 2002).

(iv) Red Hill Creek from the west fork confluence upstream approximately 5.5 km (3.4 mi) to its headwaters is essential to provide spawning habitat to support additional local populations, identified as essential to recovery (USFWS 2002). Elk Creek from the west fork confluence upstream 6.6 km (4.1 mi) to its headwaters also provides potential spawning habitat to support a population that is identified in the Draft Recovery Plan as essential to achieve recovery (USFWS 2002).

(v) East Fork Hood River from the Hood River confluence upstream 44.1 km (27.4 mi) to its headwaters is essential to provide FMO habitat to support additional local populations necessary to achieve long-term conservation of the species (USFWS 2002). Streams with habitat conditions for expanding bull trout spawning and rearing habitat have yet to be identified in the east fork subwatershed. Griswell Creek from the confluence with the east fork upstream 0.6 km (0.4 mi) to the Evans Creek confluence provides FMO habitat between Evans Creek, which is known to be occupied (Buchanan *et al.* 1997; USFWS 2002), and the East Fork Hood River, and potentially with spawning habitat essential to establish additional local populations necessary for recovery (USFWS 2002). Evans Creek from the confluence with Griswell Creek upstream 12.9 km (8.0 mi) to its headwaters is known to be occupied (Buchanan *et al.* 1997; USFWS 2002), and provides FMO habitat at a minimum, and possibly spawning and/or juvenile rearing habitat.

(vi) Middle Fork Hood River from the Hood River confluence upstream 15.4 km (9.6 mi) to the confluence with Coe Branch provides spawning and rearing habitat for the Hood River local population. Bear Creek from the Middle Fork Hood River confluence upstream 1.3 km (0.8 mi) to the confluence with an unnamed tributary is occupied and provides spawning and rearing habitat for the Hood River local population. Elliot Creek from the Middle Fork Hood

River confluence upstream 1.3 km (0.8 mi) to the confluence with Elliot Ditch is occupied and provides spawning and rearing habitat for the Hood River local population. Coe Branch from the Middle Fork Hood River confluence upstream 3.9 km (2.4 mi) to the confluence with Compass Creek is currently occupied, provides FMO habitat for the Hood River local population, and provides connectivity between spawning and rearing habitat in Compass Creek and the Middle Fork Hood River. Compass Creek from the confluence with Coe Branch upstream 4.3 km (2.7 mi) to the headwaters provides spawning and rearing habitat for the Hood River local population.

(vii) Clear Branch from the confluence with the Middle Fork Hood River upstream 1.4 km (0.9 mi) to Clear Branch Dam provides FMO habitat. Clear Branch above Laurance Lake upstream 5.0 km (3.1 mi) to the confluence with two unnamed tributaries is occupied habitat providing spawning and rearing habitat for the Clear Branch local population. Laurance Lake, with an area of 37 ha (91 ac) provides rearing habitat for the Clear Branch local population. Pinnacle Creek from the confluence with Laurance Lake upstream 3.25 km (2.02 mi) to a gradient barrier is occupied and provides spawning and rearing habitat for the Clear Branch local population.

#### (10) Unit 6: Deschutes River Basin

Two CHSUs, the lower Deschutes and the upper Deschutes, separated by Big Falls, an impassible barrier on the Deschutes River at rkm 211.4 (rmi 131.4) (Stuart *et al.* 1997), comprise this unit.

##### (i) Lower Deschutes CHSU

The Lower Deschutes CHSU is in Wasco, Sherman, Jefferson, Deschutes, and Crook Counties in central Oregon. Approximately 576 km (358 mi) of stream in the lower Deschutes River basin is proposed for critical habitat designation. Approximately 23 percent of the proposed streams are located on Federal lands, 44 percent on private lands, 32 percent on Confederated Tribes of Warm Springs Reservation of Oregon lands, and 1 percent on State lands. There are five known local populations in the lower Deschutes basin; all are identified as essential to the long-term conservation of the species (USFWS 2002). Local populations of bull trout that occupy this area include the Warm Springs, Shitike Creek, Whitewater River, Jefferson/Candle/Abbot complex, and Canyon/Jack/Heising/mainstem Metolious complex. The following

stream segments are included in this CHSU.

(A) The Deschutes River from its mouth at the Columbia River at rkm 329.8 (rmi 204.8) upstream 211.6 km (131.5 mi) provides FMO habitat for bull trout (Buchanan *et al.* 1997). The Deschutes River is important migration habitat connecting the local populations in the lower portion of the river, as well as providing rearing and foraging habitat. Pelton Reservoir (70 ha (174 ac)), Lake Simtustus (84.65 ha (236.6 ac)), and Lake Billy Chinook (1,543 ha (3,813 ac)) are created reservoirs on the Deschutes River, and are included as FMO habitat. Currently, there is no operating fish passage through the dams. Creation of a fish passage mechanism is being planned for future operation of the dams. Lake Billy Chinook provides important foraging and overwintering habitat for an adfluvial population which spawns in the Metolius River.

(B) Warm Springs River from its confluence with the Deschutes River at rkm 134.2 upstream 45.4 km (28.2 mi) contains FMO habitat. From rkm 45.5 upstream 28.0 km (17.4 mi) to its confluence with Dry Creek at rkm 73.6 spawning and rearing habitat occurs. This reach is interspersed with reaches on the Warm Springs Indian Reservation that are not included as proposed critical habitat due to their management as "Conditional Use Areas," such that special management considerations or protections are not necessary. Bunchgrass Creek provides spawning and rearing habitat from its confluence with the Warm Spring River at rkm 62.8 upstream 10 km (6.2 mi) to its source at Cold Spring (Buchanan *et al.* 1997).

(C) Shitike Creek from its confluence with the Deschutes River at rkm 155.0 upstream 14.6 km (9.1 mi) provides FMO habitat. From rkm 14.6 upstream 36.8 km (22.9 mi) is spawning and rearing habitat (Buchanan *et al.* 1997).

(D) Crooked River from its confluence with Lake Billy Chinook at rkm 189.9 upstream 1 km (0.62 mi) to Opal Springs Dam contains FMO habitat known to be occupied. From Opal Springs dam upstream 62.5 km (38.8 mi) to the city of Prineville, FMO habitat of unknown occupancy exists. A few records of bull trout have been made (Buchanan *et al.* 1997) and at least in part due to cold water springs along the length of Crooked River Gorge, the habitat is currently adequate for bull trout. Fish passage was not provided when the dam was enlarged in 1983, so there has been no record of bull trout above the dam since that time (Buchanan *et al.* 1997). However, habitat connectivity and habitat for migration in the Crooked

River, which can be established by creating fish passage through Opal Springs Dam, is essential for the long-term conservation of the species (USFWS 2002).

(E) Metolius River from its confluence with Lake Billy Chinook at rkm 195.3 upstream 37.2 km (23.1 mi) to the confluence with Jack Creek contains FMO habitat (Buchanan *et al.* 1997).

(F) Whitewater River from its confluence with the Metolius River at rkm 9.2 (rmi 5.7) upstream 17 km (10.6 mi) to its source provides spawning and rearing habitat (Buchanan *et al.* 1997).

(G) Jefferson Creek from its confluence with the Metolius River at rkm 25.5 (rmi 15.8) upstream 14.5 km (9 mi) to an impassable waterfall (Buchanan *et al.* 1997); an unnamed tributary to Jefferson Creek at rkm 10.4 (rmi 6.5) upstream 0.8 km (0.5 mi) to its source; Parker Creek from its confluence with Jefferson Creek at rkm 12.3 (rmi 7.6) upstream 0.6 km (0.4 mi); Candle Creek from its confluence with the Metolius River at rkm 25.7 (rmi 16.0) upstream 6.1 km (3.8 mi) to Cabot Creek; and Abbot Creek from its confluence with the Metolius River at rkm 26.3 (rmi 16.3) upstream 5.3 km (3.3 mi) to its source spring on the south east side of Abbot Butte contain spawning and rearing habitat (ODFW 2002).

(H) Metolius River from its confluence with Jack Creek upstream 7.2 km (4.5 mi) to the two springs at its source; Canyon Creek from its confluence with the Metolius River at rkm 36.1 (rmi 22.4) upstream 8.8 km (5.5 mi) to USFS road 1235; an unnamed tributary to Canyon Creek which is east of, and parallel to, Brush Creek upstream 3.4 km (2.1 mi); Brush Creek from its confluence with Canyon Creek at rkm 1.5 (rmi 0.9) upstream 6.1 km (3.8 mi) to USFS road 1230; Roaring Creek from its confluence with Canyon Creek at rkm 3.9 (rmi 2.4) upstream 2.9 km (1.8 mi) to two forks; up the north fork to the source springs and up the west fork to the intersection of USFS roads 1260 and 1230; Jack Creek from its confluence with the Metolius River at rkm 37.3 (rmi 23.2) upstream 7.4 km (4.6 mi) to its source springs (Buchanan *et al.* 1997); and Heising Spring from its confluence with the Metolius River near the mouth of Jack Creek upstream 0.2 km (0.12 mi) to its source (ODFW 2002) contain spawning and rearing habitat.

(I) The Lake Creek stream system is composed of a reverse dendritic (branching like a tree) pattern: As Lake Creek flows downstream, it splits into the North Fork, Middle Fork, and South Fork; the North Fork flows directly into the Metolius River; the South Fork and

Middle Fork flow back together again before entering the Metolius River. Lake Creek, including North Fork Lake Creek from its confluence with the Metolius River at rkm 41.8 (rmi 26.0) upstream 5.6 km (3.5 mi) to its confluence with Lake Creek; Middle Fork Lake Creek from its confluence with the Metolius River at rkm 42.3 (rmi 26.3) upstream 5.6 km (3.5 mi) to Lake Creek; South Fork Lake Creek from its confluence with Middle Fork Lake Creek at rkm 2.5 (rmi 15.5) upstream 4 km (2.5 mi) to Lake Creek; Lake Creek from its confluence with North, Middle, and South Fork Lake Creek upstream 2.4 km (1.5 mi) to Suttle Lake; and Suttle Lake (105 ha (259 ac)) contain FMO habitat of unknown occupancy. Link Creek from Suttle Lake upstream 1 km (0.6 mi) to Blue Lake is suitable spawning and rearing habitat of unknown occupancy; Blue Lake (22 ha (55 ac)) is FMO habitat of unknown occupancy. Together, these streams and lakes are identified as habitat essential to supporting an additional bull trout population necessary to provide for the recovered distribution of bull trout (USFWS 2002).

(J) Squaw Creek from its confluence with the Deschutes River at rkm 195.8 (rmi 121.6) upstream 2.4 km (1.5 mi) to Alder Spring provides FMO habitat (Buchanan *et al.* 1997). Restoring connectivity is an essential element for the long-term conservation of the species (USFWS 2002).

#### (ii) Upper Deschutes CHSU

The upper Deschutes River CHSU is located in Deschutes, Crook, and Klamath counties in central Oregon. Approximately 225.4 km (140.1 mi) of stream in the upper Deschutes River basin is proposed for critical habitat designation. Approximately 64 percent of the proposed streams are located on Federal lands, 35 percent on private lands, and 1 percent are on State lands. Bull trout are not currently known to occur in this area. Preliminary investigations and historic information indicate that habitat for bull trout is currently present (Riehle and Nolte 1992). The Draft Recovery Plan (USFWS 2002) identifies the historic habitat in the upper Deschutes basin as core habitat (*i.e.*, habitat that contains the essential physical elements for bull trout to persist and that is deemed critical to recovery), and as a priority one recovery need, but does not identify the number of local populations needed for recovery. The plan calls for a study to determine the feasibility of re-introduction of bull trout in the upper Deschutes River basin. The following stream segments are included in the proposed critical habitat designation

because a designation limited to the areas currently occupied would be inadequate to ensure the conservation of the species (50 CFR 242.12(e)).

(A) The Deschutes River from Wickiup Reservoir upstream 12.4 km (7.7 mi) to its source at Lava Lake; Little Deschutes River from its confluence with Crescent Creek at rkm 59.6 (rmi 37.0) upstream 31.5 km (19.6 mi) to the intersection with Highway 58, and from there upstream 23.7 km (14.7 mi) to its source at rkm 114.9 (rmi 71.4); ; Crescent Creek from its confluence with the Little Deschutes River upstream 25.4 km (15.8 mi) to the intersection with USFS road 61; Big Marsh Creek from its confluence with Crescent Creek at rkm 31.9 (rmi 19.8) upstream 12.9 km (8 mi) through the marsh at rkm 9.4 (rmi 5.8), and from the marsh upstream 10 km (6.2 mi) to its source at rkm 22.8 (rmi 14.2); ; Crescent Lake (1,488 ha (3,676 ac)); Wickiup Reservoir (4,103 ha (10,139 ac)); Crane Prairie Reservoir (1,675 ha (4,139 ac)); Little Lava Lake (53 ha (130 ac)); and Lava Lake (139 ha (344 ac)) contain FMO habitat not currently known to be occupied (Buchanan *et al.* 1997) but deemed essential to the long-term conservation of the species (USFWS 2002;).

(B) Crescent Creek from the intersection with USFS road 61 at rkm 25.5 (rmi 15.8) upstream 15.8 km (9.8 mi) to Crescent Lake; Cold Creek from its confluence with Crescent Creek upstream 3.9 km (2.4 mi) to its spring source near the railroad tracks; Whitefish Creek from its confluence with Crescent Lake upstream 8.2 km (5.1 mi) to a water fall; and Refrigerator Creek from its confluence with Big Marsh Creek upstream 6.1 km (3.8 mi) to its source contain spawning and rearing habitat not currently known to be occupied but deemed essential to the long-term conservation of the species (USFWS 2002).

(C) Hemlock Creek from its confluence with the Little Deschutes River upstream 8.9 km (5.5 mi) to its source; Spruce Creek from its confluence with Hemlock Creek upstream 6.3 km (3.9 mi) to its source; and Fall River from its confluence with the Little Deschutes River upstream 14.2 km (8.8 mi) to its source contains spawning and rearing habitat not currently known to be occupied but deemed essential to the long-term conservation of the species (USFWS 2002).

(D) North Davis Creek from its confluence with Wickiup Reservoir upstream 1 km (0.6 mi) to its source; Browns Creek from its confluence with Wickiup Reservoir upstream 19.8 km (12.3 mi) to its spring source; Quin

River from its confluence with Crane Prairie Reservoir upstream 0.3 km (0.2 mi) to its spring source; Cultus River from its confluence with Crane Prairie Reservoir upstream 13.5 km (8.4 mi) to its spring source; and Snow Creek from its confluence with the Deschutes River at rkm 375.4 (rmi 233.1) upstream 7.4 km (4.6 mi) to its spring source contain spawning and rearing habitat not currently known to be occupied but deemed essential to the long-term conservation of the species (USFWS 2002).

#### (11) Unit 7: Odell Lake

The Odell Lake Unit lies entirely within the Deschutes National Forest in Deschutes and Klamath counties. Total proposed critical habitat in this unit includes approximately 2,675 ha (6,611 ac) of lakes and 18.1 km (11.3 mi) of streams. The following lake area and stream segments are included in this critical habitat unit:

(i) Odell Lake, approximately 1,457 ha (3,600 ac) in surface area within the lake shoreline as depicted on a 1:24,000 scale map. Odell Lake is the primary FMO habitat for this adfluvial bull trout population.

(ii) Trapper Creek from its mouth at the confluence with Odell Lake to rkm 4.0 (rmi 2.5) at the confluence of two spring-fed tributaries which form its headwaters. Trapper Creek is the only tributary to Odell Lake where bull trout spawning and rearing is currently known to occur.

(iii) Crystal Creek from its mouth at the confluence with Odell Lake to its headwater springs at approximately rkm 2.4 (rmi 1.5). Crystal Creek historically supported bull trout spawning and maintains many of the habitat elements essential to the conservation of bull trout. Establishment of an appropriate additional spawning population in the area at Crystal Creek is essential to the long-term conservation of the species (USFWS 2002).

(iv) Odell Creek from its confluence with Odell Lake downstream 11.7 km (7.3 mi) to its confluence with Davis Lake. This area is included in this proposal because it currently is foraging habitat for the population that spawns in Trapper Creek that is essential to the long-term conservation of the species, and also because it provides additional spawning habitat that is essential to the long-term conservation of the species (USFWS 2002).

(v) Davis Lake (1,218 ha; 3,011 ac) is historical habitat that may currently provide FMO habitat for bull trout, and is essential to supporting a larger, more resilient bull trout population that is essential to the conservation of the



species (T. Wise, ODFW, pers. Comm., 2002; N. Dachtler, USFS, pers. Comm., 2002).

#### (12) Unit 8: John Day River Basin

The John Day River unit in the John Day River Basin in eastern Oregon includes portions of the mainstem John Day River, the North Fork John Day River, the Middle Fork John Day River and their tributary streams in Wheeler, Grant, and Umatilla counties, Oregon. A total of 1,080 km (671 mi) of stream is proposed for critical habitat. Landownership along the stream reaches proposed for critical habitat within the John Day River critical habitat unit includes approximately 54 percent Federal land, less than 1 percent State land, and 46 percent privately owned land.

Currently, there are three subpopulations recognized in the basin (Buchanan *et al.* 1997): the upper John Day basin including tributary streams; the North Fork John Day River including tributary streams; and the Middle Fork John Day and its tributary. The three subpopulation areas all flow together with no physical barriers between them, except for barriers as a seasonal consequence of low flow and high stream temperatures during summer that may limit the seasonal distribution of individuals. All proposed critical habitat designations are essential to the long-term conservation of the species (USFWS 2002). The following stream segments are included in this unit.

(i) Upper John Day River from its confluence with the North Fork John Day River at rkm 290.9 (rmi 180.6) to its confluence with Reynolds Creek at rkm 424.7 (rmi 263.7) provides FMO habitat. From Reynolds Creek upstream 20.4 km (12.7 mi) to its source there is occupied spawning and rearing habitat (Buchanan *et al.* 1997; Hemmingsen *et al.* 2001a,b,c,d). Canyon Creek from its confluence with the John Day River at rkm 389.8 (rmi 242.1) upstream 43.8 km (27.2 mi) to its source, and Pine Creek from its confluence with the John Day River at rkm 401.9 (rmi 249.6) upstream 16.7 km (10.4 mi) to its source, are habitat areas that provide for expansion of bull trout populations in the upper sub-basin, which is essential for long-term conservation of the species (USFWS 2002). Indian Creek from its confluence with the John Day River at rkm 404.2 (rmi 251.0) upstream 19.2 km (11.9 mi) to its source contains spawning and rearing habitat. Bull trout are known to occur in Indian Creek (Claire and Gray, unpublished 1993; Buchanan *et al.* 1997), but a large fire in the Indian Creek watershed in 1996 may have negatively impacted the bull trout

population. Reestablishing this population is essential to the long-term conservation of the species (USFWS 2002). Strawberry Creek from its confluence with the John Day River at rkm 413.1 (rmi 256.5) upstream 13.7 km (8.5 mi) to the USFS boundary contains suitable FMO habitat, and from the USFS boundary upstream 7.6 km (4.7 mi) to its source contains suitable spawning and rearing habitat. Strawberry Creek is identified as stream habitat to allow for expansion of bull trout populations in the upper watershed, an action deemed essential to the long-term conservation of the species (USFWS 2002). Reynolds Creek from its confluence with the John Day River at rkm 424.7 (rmi 263.7) upstream 14.8 km (9.2 mi) to its source, and North Fork Reynolds Creek from its confluence with Reynolds Creek at rkm 6.4 (4.0 mi) upstream 11.9 km (7.4 mi) to its source contain occupied spawning and rearing habitat (Buchanan *et al.* 1997). Deardorff Creek from its confluence with the John Day River at rkm 426.8 (rmi 265.0) upstream 15.4 km (9.6 mi) to its source (Buchanan *et al.* 1997; Hemmingsen *et al.* 2001a,b,c,d), Rail Creek from its confluence with the John Day River at rkm 432.1 (rmi 268.3) upstream 11.4 km (7.1 mi) to its source (Buchanan *et al.* 1997), Roberts Creek from its confluence with the John Day River at rkm 432.2 (rmi 268.4) upstream 8.8 km (5.5 mi) to its source (Buchanan *et al.* 1997; Hemmingsen *et al.* 2001a,b,c,d), and Call Creek from its confluence with the John Day River at rkm 436.2 (rmi 270.9) upstream 5.9 km (3.7 mi) to its source (Buchanan *et al.* 1997; Hemmingsen *et al.* 2001a,b,c,d) contain occupied spawning and rearing habitat.

(ii) North Fork John Day River from the confluence with the John Day River at rkm 290.9 (rmi 180.6) upstream 137 km (85 mi) to Granite Creek contains occupied FMO habitat. From Granite Creek upstream 38.5 km (23.9 mi) to its source contains occupied spawning and rearing habitat. West Fork Meadow Brook Creek from its confluence with North Fork John Day River at rkm 93.8 (rmi 58.2) upstream 4.5 km (2.8 mi) to East Fork Meadow Brook Creek contains occupied FMO habitat. East Fork Meadow Brook Creek from its confluence with the West Fork Meadow Brook Creek upstream 18 km (11.2 mi) to its source is occupied spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997). Desolation Creek from its confluence with North Fork John Day River at rkm 94.5 (rmi 58.7) upstream 8.7 km (5.4 mi) is known FMO habitat. From this point upstream 24.6 km (15.3

mi) to its source contains occupied spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997). North Fork Desolation Creek from its confluence with Desolation Creek at rkm 33.3 (rmi 20.7) upstream 10.5 km (6.5 mi) to its source is historic spawning and rearing habitat from which bull trout have probably been extirpated (Buchanan *et al.* 1997; ODFW 2001). This reach is identified as habitat essential for the long-term conservation of bull trout (USFWS 2002). South Fork Desolation Creek from its confluence with Desolation Creek at rkm 33.3 (rmi 20.7) upstream 14.0 km (8.7 mi) to its source contains occupied spawning and rearing habitat (Buchanan *et al.* 1997). Big Creek from its confluence with the North Fork John Day River at rkm 119.3 (rmi 74.1) upstream 2.1 km (1.3 mi) to its confluence with Winom Creek provides occupied spawning and rearing habitat (ODFW 1996). Winom Creek from its confluence with Big Creek at rkm 2.0 (rmi 1.2) upstream 12.0 km (7.4 mi) to its source contains occupied spawning and rearing habitat (ODFW 1996). Granite Creek from its confluence with North Fork John Day River at rkm 136.7 (rmi 84.9) upstream 25.4 km (15.8 mi) to its source is known historic spawning and rearing habitat (Buchanan *et al.* 1997) identified as essential for the long-term conservation of bull trout (USFWS 2002). Clear Creek from its confluence with the Granite Creek at rkm 12.0 (rmi 7.5) upstream 33.0 km (20.5 mi) to its source, and Lightning Creek from its confluence with Clear Creek upstream 4.8 km (3.0 mi) to its source contain spawning and rearing habitat (ODFW 1996). West Fork Clear Creek from its confluence with Lightning Creek at rkm 2.7 (rmi 1.7) upstream 7.2 km (4.5 mi) to its source, and Salmon Creek from its confluence with Lightning Creek at rkm 4.9 (rmi 3.0) upstream 3.2 km (2.0 mi) contain spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997). Bull Run Creek from its confluence with Granite Creek at rkm 14.9 (rmi 9.3) upstream 20.6 km (12.8 mi) to its source provides occupied FMO habitat (ODFW 1996; ODFW 2001). Boundary Creek from its confluence with Bull Run Creek at rkm 16.4 (rmi 10.2) upstream 4.0 km (2.5 mi) to its source, and Deep Creek from its confluence with Bull Run Creek at rkm 7.2 (rmi 4.5) upstream 5.6 km (3.5 mi) to its source contain spawning and rearing habitat (ODFW 1996; ODFW 2001). Boulder Creek from its confluence with Granite Creek at rkm 16.4 (rmi 10.2) upstream 8.2 km (5.1 mi) to its source provides spawning and rearing habitat (Buchanan *et al.* 1997;



ODFW 2001). Crane Creek from its confluence with North Fork John Day River at rkm 147.7 (rmi 91.7) upstream 20.9 km (13.0 mi) provides FMO habitat. From this point upstream 12.7 km (7.9 mi) to its source, there is spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997; ODFW 2001). Trail Creek from its confluence with the North Fork John Day River at rkm 156.9 (rmi 97.4) upstream 2.9 km (1.8 mi) to its confluence with North Trail Creek, and South Trail Creek contains FMO habitat (ODFW 1996; Buchanan *et al.* 1997), with bull trout presence documented both above and below this reach. South Trail Creek from its confluence with Trail Creek at rkm 2.9 (rmi 1.8) upstream 10.5 km (6.5 mi) to its source provides spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997; ODFW 2001). Onion Creek from its confluence with the North Fork John Day River at rkm 157.5 (rmi 97.8) upstream to its source contains spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997). Baldy Creek from its confluence with the North Fork John Day River at rkm 164.8 (rmi 102.3) upstream 7.9 km (4.9 mi), including a fork to the east and to its spring source, contains spawning and rearing habitat. Crawfish Creek from its confluence with North Fork John Day River at rkm 166.6 (rmi 103.5) upstream 8.4 km (5.2 mi) to its source provides spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997; ODFW 2001). Cunningham Creek from its confluence with North Fork John Day River at rkm 169.7 (rmi 105.4) upstream 2.9 km (1.8 mi) to its source contains spawning and rearing habitat (ODFW 1996; Buchanan *et al.* 1997).

(iii) Middle Fork John Day River from its confluence with the North Fork John Day River at rkm 50.4 (rmi 31.3) to its source is known FMO habitat (Buchanan *et al.* 1997). Indian Creek from its confluence with the Middle Fork John Day River at rkm 54.8 (rmi 34.0) upstream 21.7 km (13.5 mi) to its source is known historic spawning and rearing habitat, but is suspected to be currently unoccupied (Buchanan *et al.* 1997). This reach is necessary to provide for the recovered distribution of bull trout (USFWS 2002). Big Creek from its confluence with the Middle Fork John Day River at rkm 60.4 (rmi 37.5) upstream 20.6 km (12.8 mi) to its source, and Deadwood Creek from its confluence with Big Creek at rkm 7.4 (rmi 4.6) upstream approximately 7.1 km (4.4 mi) contain occupied spawning and rearing habitat (Buchanan *et al.* 1997). Big Boulder Creek from its confluence with the Middle Fork John

Day River at rkm 83.8 (rmi 52.0) upstream 10.3 km (6.4 mi) to its source is known historic spawning and rearing habitat, suspected to be currently unoccupied (Buchanan *et al.* 1997), and necessary to provide for the recovered distribution of bull trout (USFWS 2002). Granite Boulder Creek from its confluence with the Middle Fork John Day River at rkm 89.4 (rmi 55.5) upstream 13 km (8.1 mi) to a barrier falls is occupied spawning and rearing habitat (Buchanan *et al.* 1997). Butte Creek from its confluence with the Middle Fork John Day River at rkm 90.4 (rmi 56.1) upstream 7.7 km (4.8 mi) to its source is historic spawning and rearing habitat and is identified as essential habitat for the long-term conservation of bull trout (USFWS 2002). Davis Creek from its confluence with the Middle Fork John Day River at rkm 101.3 (rmi 62.9) upstream 10.8 km (6.7 mi) also contains spawning and rearing habitat essential for the long-term conservation of bull trout (USFWS 2002). Vinegar Creek from its confluence with the Middle Fork John Day River at rkm 102.5 (rmi 63.7) upstream to its source is occupied spawning and rearing habitat ((Seals, unpublished 2000), and also is identified as habitat essential for the long-term conservation of bull trout (USFWS 2002). Clear Creek from its confluence with the Middle Fork John Day River at rkm 104.8 (rmi 65.1) upstream 20.1 km (12.5 mi) to its source is occupied spawning and rearing habitat (Buchanan *et al.* 1997).

(iv) Dry Creek from its confluence with Pine Creek at rkm 9.59 (rmi 5.96) upstream 8.7 km (5.4 mi) to its source is spawning and rearing habitat for an isolated resident group of bull trout (ODFW 1996).

(v) Hideaway Creek from its confluence with Camas Creek at rkm 32.7 (rmi 20.3) upstream to its source is historic habitat (Buchanan *et al.* 1997) that is identified as essential to provide for the recovered distribution of bull trout (USFWS 2002). Cable Creek from its confluence with Camas Creek at rkm 28.3 (rmi 17.6) upstream 11.3 km (7.0 mi) to its source is habitat essential for the recovered distribution of bull trout (USFWS 2002).

#### (13) Unit 9: Umatilla-Walla Walla River Basins

The Umatilla and Walla Walla Rivers Unit is located in northeastern Oregon and southeastern Washington. The unit includes 636 km (395 mi) of stream extending across portions of Umatilla, Union, and Walla counties in Oregon, and Walla Walla and Columbia counties in Washington. Currently,

there are four known bull trout local populations in this unit, three in the Walla Walla River Basin, and one in the Umatilla River Basin. The Draft Recovery Plan (USFWS 2002) indicates the need to maintain these four local populations to provide for the recovered distribution of bull trout.

Landownership patterns are discussed in the individual CHSU descriptions.

#### (i) Umatilla CHSU

Approximately 284 km (176.4 mi) of stream has been proposed as critical habitat for bull trout in the Umatilla basin. Landownership within the CHSU is 37 percent Federal, 44 percent private, and 19 percent Tribal. Approximately 55 km (34 mi) of stream within the Umatilla Indian Reservation are proposed as critical habitat. The stream segments that make up the Umatilla CHSU are described below.

(A) The Umatilla River from its confluence with the Columbia River upstream 141.3 km (87.8 mi) to the confluence with the North and South Forks of the Umatilla, and extending 5.8 km (3.6 mi) up Squaw Creek, and 3.2 km (2.0 mi) up Ryan Creek. The lower 120 km (75 mi) of the Umatilla River below Squaw Creek provides important habitat for foraging, overwintering, and seasonal subadult rearing for an existing bull trout local population that spawn in upper portions of the Umatilla and Meacham Creek drainages. It also serves as a corridor for movement to the Columbia River. Subadult rearing, and potentially spawning, occurs in Squaw Creek, Ryan Creek, and the Umatilla River above Squaw Creek.

(B) Meacham Creek from its confluence with the Umatilla River upstream 34.5 km (21.4 mi) and extending up the following tributaries: North Fork Meacham Creek for a distance of 16 km (10 mi), including 4.8 km (3.0 mi) of Pot Creek, and East Fork Meacham Creek for a distance of 3.8 km (2.4 mi). Lower portions of Meacham and North Fork Meacham Creeks provide foraging and overwintering habitat, as well as a migratory corridor to the Umatilla River. Spawning and rearing has been documented in upper portions of North Fork Meacham Creek, and in the identified reach of Pot Creek. Suitable spawning and rearing habitat exists in the upper portion of Meacham Creek and in East Fork Meacham Creek, but bull trout have not been observed there in recent years (Germond *et al.* 1996).

(C) The North Fork Umatilla River from its confluence with the South Fork upstream 16.6 km (10.3 mi) to its headwaters and extending 1.6 km (1.0 mi) up Coyote Creek and 1.6 km (1.0 mi)

up Woodward Creek. This area supports the highest concentrations of spawning bull trout in the Umatilla Basin (Germond *et al.* 1996; Buchanan *et al.* 1997).

(D) The South Fork Umatilla River from its confluence with the North Fork upstream 17.4 km (10.8 mi) to its headwaters and extending 11.1 km (6.9 mi) up Buck Creek, 8.8 km (5.5 mi) up Thomas Creek, 8.2 km (5.1 mi) up Spring Creek, and 9.2 km (5.7 mi) up Shimmiehorn Creek. These drainages are used by rearing and resident bull trout and spawning was observed in the South Fork Umatilla in the early 1990s (Germond *et al.* 1996).

#### (ii) Walla Walla CHSU

Approximately 351.6 km (218.5 mi) of stream has been proposed as critical habitat to support the three bull trout local populations in the Walla Walla basin. Landownership within the CHSU is approximately 28 percent Federal, 69 percent private, and 3 percent State. The stream segments that make up the Walla Walla CHSU are described below.

(A) The Walla Walla River from its confluence with Mill Creek upstream 27.3 km (17.0 mi) to the confluence with the North and South Forks of the Walla Walla. Lower sections provide foraging and overwintering habitat, and a migratory connection to Mill Creek, and spawning and rearing habitat is present from above the town of Milton-Freewater to the forks.

(B) The North Fork Walla Walla River from its confluence with the South Fork upstream 29.7 km (18.4 mi) to its headwaters. This reach provides suitable spawning and rearing habitat, and evidence of bull trout spawning was observed there in 2000 (T. Bailey, ODFW, pers. comm., 2002).

(C) The South Fork Walla Walla River from its confluence with the North Fork upstream 42.7 km (26.5 mi) to its headwaters and extending 2.6 km (1.6 mi) up Skiphorton Creek, 3.6 km (2.2 mi) up Reser Creek, 2.2 km (1.4 mi) up Husky Spring Creek, and 1.8 km (1.1 mi) up an unnamed tributary that forks off the South Fork Walla Walla River at rkm 117.9 (rmi 73.2). These stream reaches contain occupied spawning and rearing habitat that supports the upper Walla Walla local population.

(D) Mill Creek from its confluence with the Walla Walla River upstream 54.7 km (32.0 mi) to its headwaters; Yellowhawk Creek from its confluence with Mill Creek upstream 13.6 km (8.4 mi); Garrison Creek from its confluence with Mill Creek upstream 15.4 km (9.6 mi); Low Creek from its confluence with Mill Creek upstream 3.2 km (2.0 mi); Paradise Creek from its confluence with

Mill Creek upstream for a distance of 2.2 km (1.4 mi); North Fork Mill Creek from its confluence with Mill Creek upstream 0.8 km (0.5 mi); Deadman Creek from its confluence with North Fork Mill Creek upstream for a distance of 0.5 km (0.3 mi); Burnt Fork Creek from its confluence with North Fork Mill Creek upstream for a distance of 1.6 km (1.0 mi); Green Fork Creek from its confluence with North Fork Mill Creek upstream for a distance of 0.8 km (0.5 mi); and Bull Creek from its confluence with North Fork Mill Creek upstream for a distance of 0.7 km (0.4 mi). The lower 44 km (27 mi) of Mill Creek, Yellowhawk Creek, and Garrison Creek provide foraging and overwintering habitat for adult bull trout, as well as providing connectivity to the Walla Walla River. Upper Mill Creek and the other tributaries named above are occupied spawning and rearing areas.

(E) The Touchet River from its confluence with Coppei Creek at rkm 69.2 (rmi 43.0) upstream 21.1 km (13.1 mi) to the confluence with the North and South Forks of the Touchet. This reach provides foraging and overwintering habitat for fluvial bull trout that spawn upstream.

(F) North Fork Touchet River from its confluence with the South Fork upstream 31.7 km (19.7 mi) to its headwaters; Wolf Fork Touchet River from its confluence with the North Fork Touchet River upstream 25.3 km (15.7 mi) and extending up into Robinson Creek for a distance of 17.3 km (10.7 mi); Lewis Creek from its confluence with the North Fork Touchet River upstream 7.9 km (4.9 mi); and Spangler Creek from its confluence with the North Fork Touchet River upstream 6.6 km (4.1 mi). The lower 6 km (3.7 mi) of the North Fork, the lower 12 km (7.5 mi) of the Wolf Fork, and Robinson Creek are utilized by bull trout for foraging and overwintering; they also provide connectivity to the South Fork. The North Fork above its confluence with the Wolf Fork, and portions of the Wolf Fork above Whitney Creek are documented spawning and rearing areas. Lewis and Spangler creeks also contain occupied spawning and rearing habitat.

(G) South Fork Touchet River from its confluence with the North Fork upstream 24.6 km (15.3 mi) to its headwaters; Griffin Fork from its confluence with the South Fork Touchet River upstream 6.2 km (3.9 mi) and including 3.2 km (2.0 mi) of an unnamed tributary that enters Griffin Fork from the north; and Burnt Fork from its confluence with the South Fork Touchet River upstream 4.3 km (2.7 mi). Bull trout are known to spawn in Griffin

Fork and Burnt Fork and utilize the South Fork for foraging and overwintering habitat as well as passage to the North Fork Touchet River.

#### (14) Unit 10: Grande Ronde River Basin

The Grande Ronde Unit extends across Union, Wallowa, and Umatilla counties in northeastern Oregon, and Asotin, Columbia, and Garfield counties in southeastern Washington.

Approximately 1,030 km (640 mi) of stream in the Grande Ronde River basin is proposed for critical habitat designation. The unit includes the Grande Ronde River from its headwaters to the confluence with the Snake River and a number of its tributaries, the largest being the Wallowa River. Five bull trout local populations are associated with streams that branch directly off the Grande Ronde River, and three local populations are associated with streams flowing into the Wallowa River. One local population in the upper Little Minam River is isolated by a barrier falls and is not connected to either of the main rivers. The Draft Recovery Plan (USFWS 2002) identifies all nine existing local populations as necessary for recovery, and our proposed critical habitat reflects that need. Approximately 52 percent of the stream miles in the Grande Ronde Unit are on Federal lands, less than 1 percent are on State lands, and 48 percent are on private lands. Of the 537 km (334 mi) of stream proposed for designation on Federal lands, 44 percent are within designated wilderness areas. The stream segments that make up the Grande Ronde Unit are described below.

(i) The Grande Ronde River extending from its confluence with the Snake River upstream 265 km (165 mi) to Meadow Brook Creek provides key foraging, rearing, and overwintering habitat for sub-adult and adult fluvial bull trout and is an important migratory corridor. It is the primary artery that supports and links eight local populations in the Grande Ronde River and Wallowa River basins (Baxter 2002; P. Boehne, USFS, pers. comm., 2002). The Upper Grande Ronde River from the junction with Meadow Brook Creek upstream 19.3 km (12.0 mi) is utilized for spawning and rearing.

(ii) The Wenaha River from its confluence with the Grande Ronde River upstream 34.8 km (21.6 mi) to the junction of the North Fork and South Fork Wenaha River; Crooked Creek from its confluence with the Wenaha River upstream 12.4 km (7.7 mi) to the confluence with Third Creek, extending up First Creek 2.1 km (1.3 mi) to the confluence with Willow Creek, and up Third Creek 5.3 km (3.3 mi) to the

confluence with Trout Creek; Butte Creek from its confluence with the Wenaha River upstream 11.3 km (7.0 mi) to the confluence with East Fork and West Fork Butte Creek; West Fork Butte Creek from its mouth upstream 4.8 km (3 mi) to the confluence with Rainbow Creek; Beaver Creek from its confluence with the Wenaha River upstream 2.5 km (1.5 mi); the North Fork Wenaha River from its junction with the Wenaha River upstream 18.2 km (11.3 mi); South Fork Wenaha River from its junction with the Wenaha River upstream 13.0 km (8.1 mi); and Milk Creek from its mouth at the South Fork Wenaha River upstream 5.2 km (3.2 mi). Collectively, these stream segments support the Wenaha River local population, which is the largest bull trout population in the Grande Ronde basin. The lower 16 km (10 mi) of the Wenaha River provides FMO habitat for fluvial bull trout as well as a migratory connection to the Grande Ronde River. Spawning and rearing has been documented in the upper Wenaha and all of the identified tributary streams (Buchanan *et al.* 1997; ODFW, unpublished 2000; Baxter 2002; B. Knox, ODFW, pers. comm., 2002).

(iii) Lookingglass Creek from its confluence with the Grande Ronde River upstream 24.1 km (15.0 mi) to a barrier falls and extending up Little Lookingglass Creek to the confluence with Buzzard Creek (9.3 km (5.8 mi)), up Mottet Creek for 5.7 km (3.6 mi), and up Summer Creek for 0.6 km (0.3 mi). The Lookingglass Creek system supports a local population and bull trout spawn and rear throughout the identified stream reaches (J. Zakel, ODFW, pers. comm., 2001; D. Groat, USFS, pers. comm., 2002). Lower portions of Lookingglass Creek also provide probable foraging habitat for fluvial fish and a migratory connection to the Grande Ronde River (T. Walters, ODFW, pers. comm., 2002).

(iv) Indian Creek from its confluence with the Grande Ronde River upstream for a distance of 32.6 km (20.3 mi) and extending up two tributary streams: Camp Creek for a distance of 1.2 km (0.7 mi), and East Fork Indian Creek for a distance of 3.1 km (1.9 mi). Indian Creek currently supports a bull trout local population, with spawning and rearing occurring in the upper 15.1 km (9.4 mi) portion of Indian Creek and the identified reaches of Camp Creek and East Fork Indian Creek (Buchanan *et al.* 1997; ODFW, unpublished 2000). The lower section of Indian Creek potentially provides foraging and overwintering habitat for fluvial bull trout as well as a migratory connection to the Grande Ronde River. Bull trout

occupancy has not been documented in lower Indian Creek below the National Forest boundary (the lower 17.5 km (10.9 mi); Draft Recovery Plan (USFWS 2002) guidance for this area is to restore riparian zones associated with bull trout habitat below the National Forest boundary to facilitate expansion and stabilization of this bull trout local population, which is essential for the long-term conservation of the species (USFWS 2002).

(v) Catherine Creek from the confluence with the Grande Ronde River upstream for a distance of 81.6 km (50.7 mi) to the junction of North Fork and South Fork Catherine Creek; North Fork Catherine Creek from its mouth at Catherine Creek upstream a distance of 13.8 km (8.6 mi); Middle Fork Catherine Creek from its junction with North Fork Catherine Creek upstream 4.3 km (2.7 mi) to the confluence with Squaw Creek; South Fork Catherine Creek from its junction with Catherine Creek upstream 12.3 km (7.7 mi); Pole Creek from its mouth at South Fork Catherine Creek upstream 5.1 km (3.2 mi) to its headwaters; Sand Pass Creek from its mouth at South Fork Catherine Creek upstream 4.4 km (2.8 mi) to its headwaters; and Collins Creek from its junction with South Fork Catherine Creek upstream 3 km (1.9 mi) to its headwaters. Catherine Creek currently supports a bull trout local population, with spawning and rearing occurring in each of the identified tributary streams and the upper 24.7 km (15.3 mi) of Catherine Creek (Buchanan *et al.* 1997; ODFW, unpublished 2000; P. Boehne, pers. comm., 2002; J. Zakel, pers. comm., 2002). The lower portion of Catherine Creek is utilized as FMO habitat; bull trout have been observed throughout the mainstem and migratory fluvial fish are present (Buchanan *et al.* 1997; ODFW, unpublished 2000; USFWS 2002).

(vi) Five Points Creek from its confluence with the Grande Ronde River upstream for 21.7 km (13.5 mi) and extending up Middle Fork Five Points Creek for 2.6 km (1.6 mi); Tie Creek from its confluence with Middle Fork Five Points Creek upstream 0.8 km (0.5 mi); Fiddlers Hell Creek from its junction with Middle Fork Five Points Creek upstream (0.8 mi); Mount Emily Creek from its junction with Middle Fork Five Points Creek upstream 2.1 km (1.3 mi); Fly Creek from its confluence with the Grande Ronde River upstream 13.4 km (8.3 mi) to Lookout Creek; Lookout Creek from its mouth upstream 8.5 km (5.3 mi); Sheep Creek from its confluence with the Grande Ronde River upstream 17.1 km (10.6 mi); East Fork Sheep Creek from its mouth

upstream 7.4 km (4.6 mi); Chicken Creek from its confluence with Sheep Creek upstream 8.5 km (5.3 mi); Indiana Creek from its mouth at Chicken Creek upstream 3.4 km (2.1 mi); Limber Jim Creek from its confluence with the Grande Ronde River upstream 13.0 km (8.1 mi); Marion Creek from its junction with Limber Jim Creek upstream 3.4 km (2.1 mi); Clear Creek from its confluence with the Grande Ronde River upstream 11.5 km (7.1 mi); and an unnamed tributary which branches off Clear Creek at rkm 6.3 (rmi 3.9) upstream approximately 7.0 km (4.4 mi). The Grande Ronde River above Meadow Brook Creek is utilized for spawning and rearing. The lower portion of Five Points Creek provides FMO habitat. Upper sections of Five Points Creek and the identified tributary streams provide high quality spawning and rearing habitat (P. Boehne, pers. comm., 2002; J. Zakel, pers. comm., 2002) and are identified in the Draft Recovery Plan (USFWS 2002) as areas essential to the long-term conservation of the species. Fly Creek provides FMO habitat for bull trout which spawn and rear in Lookout Creek (P. Boehne, pers. comm., 2002; J. Zakel, pers. comm., 2002). Bull trout have been observed in Lookout Creek up to approximately 0.6 km (1 mi) above USFS Road 5160 (P. Boehne, pers. comm., 2002). Lower portions of Sheep Creek provide needed FMO habitat for fluvial bull trout that spawn and rear in its upper end and its identified tributaries (P. Boehne, pers. comm., 2002; J. Zakel, pers. comm., 2002). The lower portion of Limber Jim Creek provides FMO habitat up to a potentially impassable falls, and occupied spawning and rearing habitat occurs above the falls and in Marion Creek (ODFW, unpublished 2000; P. Boehne, pers. comm., 2002; J. Zakel, pers. comm., 2002). The lower portion of Clear Creek provides FMO habitat and spawning and rearing occurs in the upper portion and in the unnamed tributary (P. Boehne, pers. comm., 2002).

(vii) The Wallowa River from the confluence with the Grande Ronde River upstream for 66.6 km (41.4 mi) to the confluence of Hurricane Creek provides FMO habitat for sub-adult and adult fluvial bull trout, and is an essential migratory corridor for movement from upper watershed spawning streams to the Grande Ronde River. Fluvial fish that spawn in the Lostine, Deer, Minam, Bear, and upper Hurricane Rivers utilize the Wallowa River to move to and from foraging and overwintering habitat in the Grande Ronde and Snake Rivers (USFWS 2002).

(viii) Minam River from the confluence with the Wallowa River upstream 72.9 km (35.3 mi) and extending up the North Minam River for a distance of 2.1 km (1.3 mi), up Elk Creek for 2.6 km (1.6 mi), and up East Fork Elk Creek for 0.5 km (0.3 mi). The Minam River currently supports a bull trout local population with spawning and rearing occurring in each of the identified tributary streams and the upper 54 km (33 mi) of the Minam River (Buchanan *et al.* 1997; ODFW, unpublished 2000). Lower sections of the Minam River are utilized as FMO habitat; bull trout have been observed throughout the mainstem and migratory fluvial fish are present (P. Sankovich, ODFW, pers. comm., 2002).

(ix) Little Minam River from its confluence with the Minam River upstream 23.8 km (14.7 mi) and extending up Boulder Creek for 0.7 km (0.4 mi) and up Dobbin Creek for a distance of 5.1 km (3 mi) (P. Sankovich, ODFW, pers. comm., 6/11/02). A barrier falls occurs at approximately rkm 8.0 (rmi 5.0) of the Little Minam River, effectively preventing upstream movement of fish beyond that point. An isolated, resident bull trout local population exists above the barrier falls in portions of the Little Minam River, Boulder Creek, and Dobbin Creek (Buchanan *et al.* 1997). This resident population does not experience immigration of bull trout from other areas. The 8.0 km (5.0 mi) stretch of the Little Minam River below the barrier falls is proposed for designation because of the presence of bull trout in this reach, high water quality, and the potential importance that emigrants from the Little Minam local population area may provide to other downstream populations (P. Sankovich, ODFW, pers. comm., 6/11/02; USFWS 2002). All of the Little Minam River and its tributaries are within the Eagle Cap Wilderness Area.

(x) Deer Creek from the confluence with the Wallowa River upstream 25.8 km (16 mi) and extending up the tributary Sage Creek for a distance of 2.7 km (1.7 mi). Bull trout currently spawn in the upper 11 km (6.9 mi) of Deer Creek and have been observed at the mouth of Sage Creek (B. Knox, pers. comm., 2002). Sage Creek above the mouth is not known to be occupied, however, it is identified in the Draft Recovery Plan (USFWS 2002) as an area that may be essential to the long-term conservation of the species. Lower Deer Creek is FMO habitat; bull trout have been observed throughout the mainstem and fluvial fish are present. Deer Creek bull trout are considered to be part of

the Minam River local population (USFWS 2002).

(xi) Bear Creek from its confluence with the Wallowa River upstream 33.6 km (20.9 mi) and extending up Little Bear Creek for a distance of 10.8 km (6.8 mi) and up Goat Creek for 1.7 km (1.1 mi). Bull trout spawn and rear in upper portions of Bear Creek, Little Bear Creek, and the identified reach of Goat Creek (B. Knox, pers. comm., 2002). Foraging and overwintering habitat is present in lower portions of Bear Creek and Little Bear Creek and fluvial bull trout have been observed in these reaches (USFWS 2002). Bull trout in the Bear Creek system are considered to be part of the Lostine River local population, so movement between these two drainages, via the Wallowa River, may be important to population viability. The lower portions of both Bear Creek and Little Bear Creek are essential to the long-term conservation of the species.

(xii) The Lostine River from its confluence with the Wallowa River upstream for 40.2 km (24.9 mi) to the mouth of the East Lostine River, and extending up Silver Creek 0.5 km (0.3 mi) to Hunter Falls and up Lake Creek for a distance of 1.2 km (0.7 mi). Bull trout spawn and rear in upper portions of the Lostine River, primarily upstream of Silver Creek, and in both Silver Creek and Lake Creek (Buchanan *et al.* 1997; B. Knox, pers. comm., 2002). The Lostine River downstream of Silver Creek is utilized as FMO habitat; fluvial bull trout have been observed in the lower Lostine River and are believed to travel down into the Wallowa and Grande Ronde Rivers, and potentially all the way down to the Snake River (P. Sankovich, ODFW, pers. comm. in USFWS 2002).

(xiii) Hurricane Creek from its confluence with the Wallowa River upstream 20.1 km (12.5 mi) to Slick Rock Creek. Hurricane Creek supports a distinct local population; bull trout spawn and rear in the upper 8 km (5 mi) of the identified reach and utilize the lower portion as FMO habitat (P. Sankovich, ODFW, pers. comm. in USFWS 2002).

#### (15) Unit 11: Imnaha/Snake River Basins

The Imnaha/Snake Unit extends across Wallowa, Baker, and Union counties in northeastern Oregon and Adams and Idaho counties in western Idaho. The unit contains approximately 306 km (190 mi) of proposed critical habitat and consists of two CHSUs: The Imnaha River basin and the Snake River basin from the Imnaha confluence upstream to Hells Canyon Dam. Seven

bull trout local populations are identified in this unit, two in the Snake River CHSU (Sheep Creek and Granite Creek), and five in the Imnaha River CHSU: (1) Mainstem Imnaha; (2) Big Sheep Creek above the Wallowa Valley Irrigation Canal (WVIC); (3) Big Sheep Creek below the WVIC; (4) Little Sheep Creek; and (5) McCully Creek. The Draft Recovery Plan (USFWS 2002) identifies all seven existing local populations as necessary for recovery, and our proposed critical habitat reflects that need. Approximately 49 percent of the unit is located on private land and 51 percent is on Federal land.

#### (i) Snake River CHSU

(A) Sheep Creek from its confluence with the Snake River at rkm 370.0 (rmi 292.2) upstream 9.5 km (5.0 mi) to the confluence of the West and East forks of Sheep Creek. Fluvial bull trout are known to occur in this stream reach (Idaho Department of Environmental Quality 1998).

(B) Granite Creek from its confluence with the Snake River at rkm 386.6 (rmi 240.1) upstream approximately 10.9 km (6.8 mi) provides FMO habitat (Idaho Department of Environmental Quality 1998).

#### (ii) Imnaha River CHSU

(A) The Imnaha River from its confluence with the Snake River at rkm 309 (rmi 191.9) upstream approximately 115.3 km (71.6 mi) to the confluence of the North Fork Imnaha and South Fork Imnaha Rivers. Bull trout occur year-round upstream of approximately rkm 64.5 (rmi 40). In fall, winter, and spring fluvial bull trout utilize the Imnaha River below this approximate location for feeding, migration, and overwintering (Buchanan *et al.* 1997). The North Fork Imnaha River from the confluence of the North Fork and South Fork Imnaha upstream approximately 9.7 km (6 mi). This reach is used for spawning and rearing by resident bull trout. The Middle Fork Imnaha from the confluence of the Middle Fork with the North Fork upstream approximately 1.3 km (0.8 mi) to a barrier falls provides spawning and rearing habitat for resident bull trout. The South Fork Imnaha River from the confluence of the South Fork with the North Fork upstream approximately 9.2 km (5.7 mi). This reach is used for spawning and rearing by resident bull trout. Soldier Creek from the confluence with the South Fork Imnaha upstream approximately 0.4 km (0.3 mi). This reach is utilized for spawning, rearing, and foraging (Buchanan *et al.* 1997). Bear Creek from the confluence with the South Fork Imnaha upstream

approximately 0.4 km (0.3 mi). This reach is utilized for spawning, rearing, and foraging (Buchanan *et al.* 1997). Blue Creek from the confluence with the South Fork Imnaha upstream approximately 0.4 km (0.3 mi). This reach is utilized for spawning, rearing, and foraging (Buchanan *et al.* 1997). Cliff Creek from the confluence with the South Fork Imnaha upstream to the headwaters approximately 6.7 km (4.2 mi). This reach is also utilized for spawning, rearing, and foraging (Buchanan *et al.* 1997; Sausen *et al.* 2001).

(B) Big Sheep Creek from the confluence with the Imnaha River upstream approximately 62 km (38.4 mi) to the confluence with North Fork Big Sheep Creek and Middle Fork Big Sheep Creek; and Middle Fork big Sheep Creek from the confluence with Big Sheep Creek upstream 3.5 km (2.2 mi) to the headwaters near Bonny Lakes. Bull trout occur year-round from Owl Creek at approximately rkm 46.1 (rmi 28.6) and upstream. In fall, winter, and spring fluvial bull trout are present below this approximate location utilizing FMO habitat down to the confluence with the Imnaha River (Buchanan *et al.* 1997). Lick Creek from the confluence with Big Sheep Creek upstream approximately 15.1 km (9.4 mi) to the headwaters. This reach provides spawning, rearing, and foraging habitat (Buchanan *et al.* 1997; Sausen *et al.* 2001). Salt Creek from the confluence with Big Sheep Creek upstream approximately 1.9 km (1.2 mi) to the point where the stream goes subsurface (downslope from the WVIC), and then continuing approximately 0.5 km (0.3 mi) above the intersection with the WVIC. These reaches provide spawning, rearing, and foraging habitat (Buchanan *et al.* 1997; Sausen *et al.* 2001).

(C) Little Sheep Creek from the confluence with Big Sheep Creek upstream approximately 41.7 km (25.9 mi) to where Little Sheep Creek is intercepted by the WVIC, and extending upstream from the WVIC approximately 0.9 km (0.6 mi). The reach of Little Sheep Creek below the WVIC is used as FMO habitat by fluvial bull trout during fall, winter, and spring. Spawning, rearing, and foraging occur upstream of the WVIC (Buchanan *et al.* 1997). Redmont Creek upstream 1.8 km (1.1 mi) from the confluence with Little Sheep Creek to approximately 0.5 km (0.3 mi) above the WVIC. These reaches are used for spawning, rearing, and foraging (Buchanan *et al.* 1997). Cabin Creek from the confluence with Little Sheep Creek upstream 0.4 km (0.25 mi).

This reach is used for spawning and/or rearing (Buchanan *et al.* 1997).

(D) McCully Creek upstream from the WVIC approximately 10.8 km (6.7 mi) to the headwaters. This reach is used as spawning and rearing habitat (Buchanan *et al.* 1997).

#### (16) Unit 12: Hells Canyon Complex

The Hells Canyon Complex Unit encompasses basins in Idaho and Oregon draining into the Snake River and its associated reservoirs, from Hells Canyon Dam upstream to the confluence of the Weiser River. It includes the Indian Creek and Wildhorse River basins in west-central Idaho and the Pine Creek, Powder River, and Burnt River basins in northeastern Oregon.

The Hells Canyon Complex unit includes a total of approximately 1,000 km (621 mi) of stream proposed as critical habitat and contains two CHSUs: the Pine-Indian-Wildhorse CHSU and the Powder River CHSU. The Pine-Indian-Wildhorse CHSU is located within Adams and Washington counties in western Idaho, and Baker and Wallowa counties in northeastern Oregon. A total of 390 km (242 mi) of streams within this CHSU are proposed for critical habitat designation. This CHSU contains seven known local populations of bull trout and two potential local populations. Approximate percentages of landownership associated with the streams proposed for designation are 65 percent Federal, 35 percent private, and less than 1 percent State of Idaho. The Powder River CHSU is located within Baker, Union, and Wallowa counties in northeastern Oregon. A total of approximately 610 km (379 mi) of streams within the Powder River CHSU are proposed for critical habitat designation. This CHSU contains 10 known local populations of bull trout and one potential local population. Approximate percentages of landownership associated with the streams proposed for designation are 64 percent private, 36 percent Federal, and less than 1 percent State of Oregon. The stream segments that make up the Hells Canyon Complex Unit are described below.

##### (i) Pine-Indian-Wildhorse CHSU

(A) Pine Creek from the confluence with the west bank of Hells Canyon Reservoir on the Snake River (rkm 434 (rmi 269.5)) upstream approximately 52.7 km (32.7 mi) to the joint confluence of West Fork Pine Creek and Middle Fork Pine Creek. Pine Creek provides FMO habitat in the lower reaches, as well as spawning and rearing habitat in the headwaters. North Pine Creek from

the confluence with Pine Creek upstream approximately 22.3 km (13.8 mi) to the Baker and Wallowa counties boundary. North Pine Creek is currently occupied FMO habitat from the confluence with Pine Creek upstream to the confluence with Elk Creek. East Fork Pine Creek from the confluence with Pine Creek upstream approximately 7.2 km (4.5 mi) to the perennial headwaters. West Fork Pine Creek from the confluence with Pine Creek upstream approximately 3.8 km (2.4 mi) to the perennial headwaters. Middle Fork Pine Creek from the confluence with Pine Creek upstream approximately 3.7 km (2.3 mi) to the perennial headwaters. These creeks are essential for maintaining the upper Pine Creek local population, maintaining connectivity among all local populations within the Pine Creek Basin, and also maintaining connectivity to Hells Canyon Reservoir on the Snake River (USFWS 2002). The upper reach of North Pine Creek is also FMO habitat to provide connectivity essential to the long-term conservation of bull trout. (USFWS 2002).

(B) Elk Creek from the confluence with North Pine Creek upstream approximately 15.2 km (9.4 mi) to the perennial headwaters. Elk Creek provides spawning and rearing habitat for the Elk Creek local population, as well as FMO habitat for migratory bull trout from Hells Canyon Reservoir and the Indian Creek (Idaho) local population. Little Elk Creek from the confluence with North Pine Creek upstream approximately 9.9 km (6.2 mi) to the perennial headwaters. Fall Creek from the confluence with North Pine Creek upstream approximately 7.1 km (4.4 mi) to the perennial headwaters. These tributaries provide spawning, rearing, and/or foraging habitat for expansion of existing (Elk Creek) and potential (Lake Fork and Duck Creek) local populations associated with North Pine Creek. Habitat for expansion of distribution within existing local populations and establishment of potential local populations is essential for the long-term conservation of bull trout (USFWS 2002). Aspen Creek from the confluence with Elk Creek upstream approximately 2.5 km (1.6 mi) to the perennial headwaters. Cabin Creek from the confluence with Elk Creek upstream approximately 2 km (1.2 mi) to the perennial headwaters. Big Elk Creek from the confluence with Elk Creek upstream approximately 3.3 km (2.1 mi) to the perennial headwaters. Cabin, Big Elk, and Aspen creeks provide spawning and rearing habitat for the Elk Creek local population.

(C) Lake Fork Creek (also termed Lake Fork of Elk Creek or Lake Creek) from

the confluence with Elk Creek upstream approximately 16.7 km (10.4 mi) to the perennial headwaters. Lake Fork Creek is habitat for establishing a local population of bull trout that is essential for the long-term conservation of the species (USFWS 2002).

(D) Duck Creek from the confluence with North Pine Creek upstream approximately 9.7 km (6 mi) to the perennial headwaters. Duck Creek is habitat for establishing a local population of bull trout essential for the long-term conservation of the species (USFWS 2002). Fish Creek from the confluence with Pine Creek upstream approximately 20.5 km (12.8 mi) to the perennial headwaters. This stream is historical habitat for bull trout and may provide spawning, rearing, and/or foraging habitat for expansion of existing (Elk Creek) and potential (Lake Fork and Duck Creek) local populations associated with North Pine Creek. Expansion of distribution within local populations is essential for the long-term conservation of bull trout. (USFWS 2002)

(E) East Pine Creek from the confluence with Pine Creek upstream approximately 30.1 km (18.7 mi) to the perennial headwaters. Lower East Pine Creek provides FMO habitat necessary to maintain connectivity among local populations within the Pine Creek Basin. Spawning and rearing habitat for the East Pine Creek local population occurs in the headwaters. Okanogan Creek from the confluence with East Pine Creek upstream approximately 4 km (2.5 mi) to the perennial headwaters. Trinity Creek from the confluence with East Pine Creek upstream approximately 4.8 km (3 mi) to the perennial headwaters. These creeks are historical habitat for bull trout and provide spawning and rearing habitat for expansion of existing local populations. Habitat for expansion of distribution within local populations is essential for the long-term conservation of bull trout (USFWS 2002). An unnamed western tributary to East Pine Creek (located between Trinity Creek and East Fork of East Pine Creek) from the confluence with East Pine Creek upstream approximately 2.5 km (1.6 mi) to the perennial headwaters. East Fork of East Pine Creek from the confluence with East Pine Creek upstream approximately 2.5 km (1.6 mi) to the perennial headwaters. The unnamed tributary and the East Fork of East Pine Creek provide spawning and rearing habitat for the East Pine Creek local population.

(F) Clear Creek from the confluence with Pine Creek upstream approximately 26.1 km (16.2 mi) to the perennial headwaters. Meadow Creek

from the confluence with Clear Creek upstream approximately 5.3 km (3.3 mi) to the perennial headwaters. Trail Creek from the confluence with Clear Creek upstream approximately 6.8 km (4.2 mi) to the perennial headwaters. These creeks provide spawning and rearing habitat for the Clear Creek local population. Lower Clear Creek also provides FMO habitat necessary to maintain connectivity among local populations within the Pine Creek Basin.

(G) Indian Creek from the confluence with the east bank of the Snake River within the Oxbow Bypass (rkm 436.0 (rmi 270.8)) upstream approximately 29.6 km (18.4 mi) to the perennial headwaters. Camp Creek from the confluence with Indian Creek upstream approximately 3.7 km (2.3 mi) to the perennial headwaters. Indian Creek supports both resident and migratory bull trout. Lower Indian Creek provides FMO habitat to maintain connectivity with Hells Canyon Reservoir; spawning and rearing habitat is present in the headwaters of Indian Creek and Camp Creek for the Indian Creek (Idaho) local population.

(H) Bear Creek from the confluence with the Crooked River at the head of the Wildhorse River upstream approximately 30 km (18.6 mi) to the perennial headwaters. Bear Creek provides spawning and rearing habitat for the Bear Creek local population, one of only two local populations of bull trout in the Wildhorse River Basin. Lick Creek from the confluence with Bear Creek upstream approximately 21.8 km (13.6 mi) to the perennial headwaters. Current occupancy is unknown, but Lick Creek provides habitat for expansion of distribution of the Bear Creek local population; such expansion is essential for the long-term conservation of the species (USFWS 2002). Wildhorse River from the confluence with the east bank of Oxbow Reservoir on the Snake River (rkm 455 (rmi 282.6)) upstream approximately 22.4 km (13.9 mi) to the joint confluence of Bear Creek and the Crooked River. The extent of current occupancy is unknown, but bull trout have recently used the Wildhorse River as migratory habitat. The Wildhorse River provides FMO habitat and connectivity between two local populations (Bear Creek and Crooked River), which is essential to the long-term conservation of the species (USFWS 2002).

(I) Crooked River from the confluence with Bear Creek at the head of the Wildhorse River upstream approximately 23.7 km (14.7 mi) to the perennial headwaters. The Crooked River is habitat for one of only two local

populations of bull trout in the Wildhorse River Basin and is essential for the long-term conservation of the species.

(ii) Powder River CHSU

(A) The Powder River from confluence with the west bank of Brownlee Reservoir on the Snake River upstream approximately 235 km (146 mi) to the joint confluence of the McCully Fork and Cracker Creek. There are historical (1960s) observations of bull trout in the Powder River downstream of Baker City, Oregon, and upstream of Mason Dam (Buchanan *et al.* 1997) but the extent of current occupancy is unknown. Bull trout can utilize Phillips Reservoir above Mason Dam for FMO habitat in the fall, winter, and spring. The mainstem Powder River will provide FMO habitat when two-way fish passage at Thief Valley and Mason dams is restored, and habitat for connectivity among local populations in the upper Powder and North Powder rivers and Eagle Creek is essential for the long-term conservation of the species (USFWS 2002).

(B) Eagle Creek from the confluence with the Powder River Arm of Brownlee Reservoir on the Snake River upstream approximately 61 km (37.9 mi) to the perennial headwaters. East Fork Eagle Creek from the confluence with Eagle Creek upstream approximately 24.2 km (15 mi) to the perennial headwaters. West Eagle Creek from the confluence with Eagle Creek upstream approximately 15.1 km (9.4 mi) to the perennial headwaters. These creeks are historical habitat for bull trout, but the extent of current occupancy is unknown. Reestablishing a local population in the Eagle Creek watershed is essential for the conservation of bull trout (USFWS 2002).

(C) Wolf Creek from the confluence with the Powder River upstream approximately 31.6 km (19.6 mi) to the perennial headwaters. Wolf Creek provides spawning and rearing habitat for the Wolf Creek local population. When two-way fish passage at Wolf Creek Dam is restored, lower Wolf Creek will provide FMO habitat and connectivity with other local populations in the Powder River Basin, and habitat for such connectivity is essential for the conservation of bull trout (USFWS 2002).

(D) North Powder River from the confluence with the Powder River upstream approximately 75.0 km (46.6 mi) to the perennial headwaters. The North Powder River provides spawning and rearing habitat for the North Powder River local population. The lower North Powder River downstream of the



confluence with Anthony Creek likely provides FMO habitat and is essential for connectivity among local populations in the Powder River Basin (USFWS 2002).

(E) Anthony Creek from the confluence with the North Powder River upstream approximately 25.8 km (16 mi) to a barrier waterfall located approximately 10 km (6.2 mi) upstream from the confluence with Indian Creek (Oregon). Anthony Creek provides spawning and/or rearing habitat for the Anthony Creek local population, identified as essential for recovery (USFWS 2002). North Fork Anthony Creek from the confluence with Anthony Creek upstream approximately 8.5 km (5.3 mi) to the perennial headwaters. North Fork Anthony Creek provides spawning and/or rearing habitat for the Anthony Creek local population.

(F) Indian Creek from the confluence with Anthony Creek upstream approximately 8.4 km (5.2 mi) to the perennial headwaters. Indian Creek provides rearing habitat for the Indian Creek local population identified as essential for recovery (USFWS 2002).

(G) Big Muddy Creek from the confluence with the Powder River upstream approximately 17.3 km (10.7 mi) to the perennial headwaters. Big Muddy Creek provides spawning and rearing habitat for the Big Muddy Creek local population of bull trout, which is essential for recovery (USFWS 2002).

(H) Rock Creek from the confluence with the Powder River upstream approximately 20.2 km (12.6 mi) to the perennial headwaters. Rock Creek provides spawning and rearing habitat for the Rock Creek local population (USFWS 2002).

(I) Salmon Creek from the confluence with the Powder River upstream approximately 19.6 km (2.2 mi) to the perennial headwaters. Salmon Creek provides spawning and rearing habitat for the essential Salmon Creek local population.

(J) Pine Creek from the confluence with Salmon Creek upstream approximately 16.9 km (10.5 mi) to Pine Creek Dam. Pine Creek provides spawning and rearing habitat for the Pine Creek local population, which is essential for recovery (USFWS 2002).

(K) Lake Creek from the confluence with Deer Creek upstream to the perennial headwaters. Lake Creek provides spawning and rearing habitat for the Lake Creek local population, which is essential for recovery (USFWS 2002). Deer Creek from the confluence with the north bank of Phillips Reservoir on the Powder River upstream approximately 9.2 km (5.7 mi) to the

confluence with Lake Creek. Current occupancy is unknown, but Deer Creek is essential to provide FMO habitat for the Lake Creek local population and connectivity with other bull trout populations in the Powder River Basin (USFWS 2002).

(L) Cracker Creek from the confluence with the McCully Fork at the head of the Powder River upstream approximately 13.6 km (8.4 mi) to the perennial headwaters. Cracker Creek provides connectivity for bull trout in two tributaries (Silver and Little Cracker creeks) within the upper Powder River local population, and with other local populations within the Powder River Basin via lower Cracker Creek. Silver Creek from the confluence with Cracker Creek upstream approximately 9.8 km (6.1 mi) to the perennial headwaters. Silver Creek provides spawning and rearing habitat for the upper Powder River local population. Fruit Creek from the confluence with Silver Creek upstream approximately 7.3 km (4.5 mi) to the perennial headwaters. Fruit Creek is historical bull trout habitat, but current occupancy is unknown. Passage barriers in Fruit Creek are identified as recovery tasks in the Draft Recovery Plan (USFWS 2002), which will allow for potential natural expansion of distribution within the upper Powder River local population. Fruit Creek is also being considered as a site for transplanting bull trout to help provide for the long-term conservation of the species. Little Cracker Creek from the confluence with Cracker Creek upstream approximately 3.1 km (1.9 mi) to the perennial headwaters. Little Cracker Creek currently provides bull trout rearing habitat for the upper Powder River local population.

#### (17) Unit 13: Malheur River Basin

The Malheur Unit is in the Malheur River Basin in eastern Oregon in Grant, Baker, Harney, and Malheur counties. A total of 389 km (241 mi) of streams and two reservoirs are proposed for critical habitat. Landownership along the waterways proposed for critical habitat are approximately 63 percent Federal land, 3 percent State land, and 34 percent private land. There are two local bull trout populations (upper Malheur (a) and North Fork Malheur (b)), and four potential local populations (Bosonberg Creek, McCoy Creek, Corral Basin Creek, and the Little Malheur River) that are identified as essential to recovery in the Draft Recovery Plan (USFWS 2002).

(i) Malheur River upstream 95.6 km (59.4 mi) from Warm Springs Dam, including Warm Springs Reservoir (1,658 ha; 4,098 ac), to the confluence

with Big Creek at rkm 229 in Logan Valley provides FMO habitat for bull trout which migrate downstream from spawning and rearing habitat in the Logan Valley area (USFWS 2002).

(ii) The North Fork Malheur River from Agency Valley Dam upstream 36.5 km (22.7 mi) to the headwaters, including Beulah Reservoir (712 ha; 1,759 ac), provides FMO habitat below rkm 69 and spawning and rearing habitat above that point (Burns Paiute Tribe 1998–2000). Sheep Creek from the confluence with North Fork Malheur River at rkm 83.2 upstream 6.7 km (4.2 mi) to its source provides spawning and rearing habitat (Buchanan *et al.* 1997; Perkins, unpublished 1996–2001; Burns Paiute Tribe 1998–2000). Cow Creek from the confluence with North Fork Malheur River upstream 5.7 km (3.5 mi) to its source provides rearing habitat. Swamp Creek from the confluence with North Fork Malheur River at rkm 84.4 upstream 8.1 km (5.0 mi) to its source contains spawning and rearing habitat (Buchanan *et al.* 1997; Perkins, unpublished 1996–2001; Burns Paiute Tribe 1998–2000). Flat Creek from its confluence with North Fork Malheur River at rkm 86.0 upstream to rkm 1.2 at the first tributary confluence provides FMO habitat (Buchanan *et al.* 1997). Horseshoe Creek from the confluence with the North Fork Malheur River at rkm 88.4 upstream 4.5 km (2.8 mi) to its source contains spawning and rearing habitat (Buchanan *et al.* 1997; Perkins, unpublished 1996–2001; Burns Paiute Tribe 1998–2000).

(iii) The Little Malheur River from its confluence with the North Fork Malheur River upstream 31.2 km (19.4 mi) to Camp Creek provides potential FMO habitat in the lower reaches and potential spawning and rearing habitat in the upper reaches. Crane Creek from its confluence with the North Fork Malheur River at rkm 69.5 upstream 1.8 km (1.1 mi) to the confluence with Little Crane Creek contains suitable migratory and rearing habitat (Burns Paiute Tribe 1998, 1999). Little Crane Creek from the confluence with Crane Creek upstream 15.2 km (9.4 mi) to its spring fed sources provides suitable spawning and rearing habitat (Buchanan *et al.* 1997; Perkins, unpublished 1996–2001; Burns Paiute Tribe 1998–2000). An unnamed stream at rkm 9.6 of Little Crane Creek also provides suitable spawning and rearing habitat from the confluence upstream 2.6 km (1.6 mi) to its headwaters (A. Mauer, USFWS, pers. comm., 2002). Elk Creek from the confluence with the North Fork Malheur River at rkm 79.3 upstream 1.6 km (1.0 mi) to its confluence with the North Fork and South Fork Elk Creek, South Fork Elk



Creek from the confluence with Elk Creek upstream 5.9 km (3.7 mi) to its source, and North Fork Elk Creek from the confluence with Elk Creek upstream 7.7 km (4.8 mi) to its source provide spawning and rearing habitat (Buchanan *et al.* 1997; Perkins, unpublished 1996–2001; Burns Paiute Tribe 1998–2000). The Little Malheur River is essential to providing for the recovered distribution of bull trout (USFWS 2002).

(iv) Summit Creek from the confluence with the Malheur River at rkm 292.0 upstream 22.8 km (14.2 mi) to its source; Big Creek from the confluence with the Malheur River at rkm 299.0 upstream 19.0 km (11.8 mi) to its source; Meadow Fork Big Creek from the confluence with Big Creek at rkm 9.8 upstream 6.7 km (4.2 mi) to its source; Snowshoe Creek from the confluence with Big Creek at rkm 11.7 upstream 3.4 km (2.1 mi) to its source; Lake Creek from the confluence with the Malheur River at rkm 299.0 upstream 20.3 km (12.6 mi) to its source; and Crooked Creek from the confluence with Lake Creek at rkm 1.2 upstream 13.5 km (8.4 mi) to its source provide spawning and rearing habitat for the upper Malheur River local population (Buchanan *et al.* 1997; Perkins, unpublished 1996–2001; Burns Paiute Tribe 1998–2000).

(v) McCoy Creek from the confluence with Lake Creek at rkm 4.0 upstream 14.6 km (9.1 mi) to its source contains potential spawning and rearing habitat. McCoy Creek is identified as an area for range expansion in the Draft Recovery Plan, and is essential for the long-term conservation of the species (USFWS 2002).

(vi) Bosonberg Creek from the confluence with the Malheur River at rkm 298.0 upstream 5.8 km (3.6 mi) to its source contains potential habitat for bull trout. Restoration of the habitat in Bosonberg Creek to provide for population expansion is essential to the long-term conservation of the species (USFWS 2002).

(vii) Corral Basin Creek from the confluence with Big Creek at rkm 8.3 (rmi 5.2) upstream to its source is historic habitat necessary to provide for population expansion that is essential to the conservation of the species (USFWS 2002).

#### (18) Unit 14: Coeur d'Alene Lake Basin

##### (i) Coeur d'Alene Lake CHSU

The Coeur d'Alene Lake CHSU lies within Kootenai, Shoshone, Benewah and Bonner counties, Idaho. Landownership along stream proposed as critical habitat for bull trout include approximately 63 percent Federal, 30

percent private, and 6 percent State. The stream reaches proposed as designated critical habitat were identified by the Coeur d'Alene Lake Basin Recovery Unit Team as the best of the best remaining suitable habitats within a matrix of habitats generally considered unsuitable for support of spawning and rearing bull trout (USFS, unpublished 1994, 1998a, 1998b). The areas proposed as critical habitat all presently contain multiple primary constituent elements and reflect habitat essential to support populations of bull trout identified as necessary for the long-term conservation of bull trout (USFWS 2002). In total, there are approximately 6,903 km (4,290 mi) of streams comprising 502 named streams in the Coeur d'Alene Lake basin. Of this, 30 stream reaches or tributaries comprising 677 km (421 mi) are proposed as critical habitat. This equals approximately 6 percent of all streams and less than 10 percent of total stream length in the basin. Lakes comprising 12,727 ha (31,450 ac) of surface area are also being proposed as critical habitat.

(A) Coeur d'Alene Lake, approximately 12,727 ha (31,450 ac) in size, provides FMO habitat for the almost entirely migratory (adfluvial and fluvial) forms present in this CHSU.

(B) Coeur d'Alene River from the mouth upstream 59.4 km (36.9 mi) to the confluence of the North Fork and South Fork of the Coeur d'Alene River provides FMO habitat necessary for the conservation of the species (USFWS 2002). Any adfluvial bull trout that either currently exist, or those local populations of bull trout to be reestablished in the future in portions of the North Fork Coeur d'Alene River, would migrate through this section of river. North Fork Coeur d'Alene River, from its confluence with the South Fork Coeur d'Alene River upstream 140.2 km (87.1 mi) to the headwaters, is FMO habitat necessary for the long-term conservation of the species. (**Note:** we found discrepancies between USGS, STREAMNET, and other maps for this area, and specifically for the designation of the North Fork Coeur d'Alene River; we relied on the Idaho Panhandle National Forest, Fernan and Wallace Ranger District maps.)

(C) Cougar Creek from the confluence with the North Fork Coeur d'Alene River upstream 15.3 km (9.5 mi) provides spawning and rearing habitat to provide for the recovered distribution of bull trout (USFWS 2002). This portion of Cougar Creek has been identified as a priority stream for restoration and recovery activities as it has been determined to provide habitat elements necessary for long term

security, or have a reasonable potential to be restored and provide elements for long-term security of bull trout in the near future. This watershed maintains good populations of westslope cutthroat trout, as well as sculpin species, indicative of potential bull trout habitat (USFS 1992, 1998a; E. Lider, USFS, pers. comm., 2002).

(D) Steamboat Creek (including the East and West Forks) from the confluence with the North Fork Coeur d'Alene River upstream 25.4 km (15.8 mi) to the headwaters provides spawning and rearing habitat essential for the conservation of the species. This portion of Steamboat Creek has been identified as a priority stream for restoration and recovery activities (USFWS 2002) as it has been determined to provide habitat elements necessary for long term security or have a reasonable potential to be restored and provide elements for long-term security of bull trout in the near future. This area maintains good populations of westslope cutthroat trout (*Oncorhynchus clarki*), as well as sculpin (*Cottus sp.*) species, indicative of potentially suitable bull trout habitat (USFS 1992, 1998a).

(E) Prichard Creek from the confluence with the North Fork Coeur d'Alene River upstream 4.7 km (2.9 mi) to the confluence with Eagle Creek contains FMO habitat. This reach is considered a priority water body for restoration and recovery activities as it is essential as a migratory corridor for adfluvial bull trout, and to maintain connectivity between all local populations within Coeur d'Alene Lake basin to provide for conservation of the species (USFWS 2002).

(F) Eagle Creek from the confluence with Prichard Creek upstream 1.6 km (1.0 mi) to the confluence with the West Fork Eagle Creek provides FMO habitat. This portion of Eagle Creek has been identified as a priority water body for restoration and recovery activities as it is essential as a migratory corridor for adfluvial bull trout, and to maintain connectivity between all local populations within Coeur d'Alene Lake basin (USFWS 2002). Any adfluvial bull trout that would utilize the West Fork Eagle Creek for spawning and rearing would have to migrate through this short section of Eagle Creek. West Fork Eagle Creek from the confluence with Eagle Creek upstream 15.0 km (9.3 mi) to the headwaters provides spawning and rearing habitat. This portion of the West Fork Eagle Creek has been identified as a priority stream for restoration and recovery activities as it has been determined to provide habitat elements necessary for long term

security, or have a reasonable potential to be restored and provide elements for long-term security of bull trout in the near future (USFWS 2002). In order to meet the recovery criteria of reestablishing at least 300 spawners within the North Fork Coeur d'Alene recovery CHSU, previously occupied and currently suitable habitat in the West Fork of Eagle Creek needs to be maintained, and if possible, enhanced, to provide additional areas of spawning and rearing essential to the conservation of the species.

(G) Tepee Creek from the confluence with the North Fork Coeur d'Alene River upstream 14.2 km (8.8 mi) to the confluence with Trail Creek contains FMO habitat. This portion of Tepee Creek, and the associated tributaries discussed below, have been identified as priority water bodies for restoration activities necessary as migratory corridors for adfluvial bull trout, to maintain connectivity between all local populations within Coeur d'Alene Lake basin, and to provide spawning and rearing habitat, all of which are essential to the conservation of the species (USFWS 2002). Tepee Creek has a variety of stream habitat types (size, flow, complexity) that appear to provide fish with diverse habitat that will allow for long term persistence within the watershed. Previous habitat restoration activities have created larger and deeper pools and runs in several reaches of this stream (E. Lider, USFS, pers. comm., 2002). Independence Creek from the confluence with Tepee Creek upstream 25.0 km (15.5 mi) to the headwaters provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches. This watershed is especially valuable within the Coeur d'Alene River basin to provide refugia essential to the conservation of bull trout (USFS 1998a). Trail Creek from the confluence with Tepee Creek upstream 10.0 km (6.2 mi) to the headwaters contains spawning and rearing habitat. In order to meet the recovery criteria of reestablishing at least 300 spawners within the North Fork Coeur d'Alene CHSU essential to the conservation of the species, previously occupied and currently suitable habitat such as that in Trail Creek needs to be maintained, and if possible, enhanced to provide additional areas of spawning and rearing.

(H) Buckskin Creek from the confluence with the North Fork Coeur d'Alene River upstream 6.9 km (4.3 mi) to the headwaters provides spawning and rearing habitat. This portion of Buckskin Creek has been identified as a priority stream for restoration and

recovery activities as it has been determined to provide habitat elements necessary for long term security, or have a reasonable potential to be restored and provide elements for conservation of bull trout in the near future (USFWS 2002). Forage base for bull trout is abundant as the population of westslope cutthroat trout in Buckskin Creek is very healthy, and had some of the highest densities relative to over 70 other streams that were surveyed in 1994 and 1995 throughout the Coeur d'Alene River basin (Dunnigan 1997). Stream habitat in Buckskin Creek is very good as very little management has occurred within the watershed (E. Lider, USFS, pers. comm., 2002).

(ii) St. Joe River CHSU

The St. Joe River CHSU includes an estimated 3,574 km (2,221 mi) of streams encompassing over 254 named tributaries (Streamnet 2002) in Shoshone, Benewah, and Latah counties, Idaho. The high elevation and cold water temperatures inherent to this area results in natural conditions that favor bull trout persistence (PBTAT 1998c). In addition, the processes within the upper portion of this CHSU have been minimally altered by human management actions. Landownership adjacent to aquatic areas proposed as critical habitat for bull trout include approximately 52 percent Federal, 41 percent private, and 7 percent State lands.

The Coeur d'Alene Lake Basin Recovery Unit Team established recovery criteria of reestablishing at least eight local populations in the St. Joe River CHSU with an average of 100 spawners annually per local population. The streams identified below either currently provide habitat elements necessary for long term security, or have a reasonable potential to be restored and provide elements for long-term security of bull trout in the near future. Proposed critical habitat reflects those areas necessary to support populations of bull trout identified as necessary to provide for the long-term conservation of bull trout in the Draft Recovery Plan (USFWS 2002).

(A) The lower St. Joe River from the confluence with Coeur d'Alene Lake upstream 156.4 km (97.2 mi) to the confluence with Simmons Creek provides FMO habitat. Mainstem channel habitat conditions are essential to the long term viability of bull trout due to the over-wintering habits of these migratory fish. Adult migratory bull trout from Coeur d'Alene Lake travel upstream through these lower mainstem reaches in the spring and early summer to natal streams, where they typically

spawn during the first few weeks of September (Idaho Department of Fish and Game (IDFG), unpublished 1999), and then return downstream. Upper St. Joe River from the confluence of Simmons Creek upstream 71.8 km (44.6 mi) to Rambikur Falls (just below St. Joe Lake) provides spawning, rearing, and FMO habitat. This portion of upper St. Joe River, and the associated streams described below, has been identified as a priority area for restoration and recovery activities (USFWS 2002). Bull trout are currently known to spawn and rear within this portion of the St. Joe River basin.

(B) Eagle Creek from the confluence with the St. Joe River upstream 10.6 km (6.6 mi) to the headwaters provides, at a minimum, foraging habitat. Additionally, Eagle Creek and the associated streams described below have been identified as priority streams for restoration and recovery activities (USFWS 2002) with many of the habitat characteristics that are essential to the conservation of bull trout (USFS 1998b). Mosquito Creek from the confluence with the St. Joe River upstream 2.1 km (1.3 mi) to a barrier falls provides spawning and rearing habitat. This portion of Mosquito Creek has been identified as a priority stream for restoration and recovery activities and is essential to the conservation of bull trout (USFWS 2002). Gold Creek from the confluence with the St. Joe River upstream 15.4 km (9.6 mi) to the headwaters provides spawning and rearing habitat. Simmons Creek from the confluence with the St. Joe River upstream 18.7 km (11.6 mi) to the headwaters contains spawning and rearing habitat.

(C) Fly Creek from the confluence with the St. Joe River upstream 9.8 km (6.1 mi) to its headwaters at Twin Lakes contains spawning and rearing habitat. Beaver Creek from the confluence with the St. Joe River upstream 10.6 km (6.6 mi) to its headwaters contains spawning and rearing habitat. Red Ives Creek from the confluence with the St. Joe River upstream 9.2 km (5.7 mi) to the headwaters provides spawning and rearing habitat. Adult bull trout implanted with radio transmitters have been tracked into Red Ives Creek, presumably to spawn. Surveys have documented bull trout of various age classes as well as redds in this stream (USFS 1993).

(D) Timber Creek from the confluence with the St. Joe River upstream 8.5 km (5.3 mi) to the headwaters contains spawning and rearing habitat. Surveys have documented spawning and bull trout of various age classes in this stream. Ruby Creek from the confluence

with the St. Joe River upstream 6.8 km (4.2 mi) to the headwaters contains documented spawning and rearing habitat. Bean Creek from the confluence with the St. Joe River upstream 7.2 km (4.5 mi) to the headwaters contains documented spawning and rearing habitat.

(E) Heller Creek from the confluence with the St. Joe River upstream 6.0 km (3.7 mi) to the headwaters provides documented spawning and rearing habitat. Sherlock Creek from the confluence with Heller Creek upstream 7.4 km (4.6 mi) to the headwaters provides spawning and rearing habitat. Yankee Bar Creek from the confluence with the St. Joe River upstream 3.2 km (2.0 mi) to the headwaters contains spawning and rearing habitat.

(F) California Creek from the confluence with the St. Joe River upstream 4.7 km (2.9 mi) to the headwaters contains spawning and rearing habitat. Medicine Creek from the confluence with the St. Joe River upstream 4.7 km (2.9 mi) to the headwaters provides habitat where bull trout are known to spawn. Wisdom Creek from the confluence with the St. Joe River upstream 6.1 km (3.8 mi) to the headwaters provides habitat where bull trout are currently known to spawn and rear. A steep cascade, which was believed to form a barrier to migratory fish, occurs at approximately rkm 4.0 (rmi 2.2). However, during redd surveys in 2001, multiple redds and bull trout were documented above the cascade (J. Dupont, IDFG, pers. comm., 2002).

#### (19) Unit 15: Clearwater River Basin

The Clearwater River Unit includes 3,063 km (1,904 mi) of streams and 6,722 ha (16,611 ac) of lakes proposed to be designated as critical habitat for bull trout within the Clearwater River basin in north-central Idaho. This large basin covers an area of approximately 2,423,691 ha (5,989,052 ac) and extends from the Snake River confluence at Lewiston on the west to headwaters in the Bitterroot Mountains along the Idaho/Montana border on the east. This unit is divided into seven CHSUs. These CHSUs include: Lower/Middle Fork Clearwater River, North Fork Clearwater River, Fish Lake (North Fork), South Fork Clearwater River, Lochsa River, Fish Lake (Lochsa), and Selway River. Habitat areas to support all local populations within this unit are essential to the conservation of bull trout (USFWS 2002).

##### (i) Lower/Middle Fork Clearwater River CHSU

The Lower/Middle Fork Clearwater River CHSU lies within a drainage basin

of approximately 660,012 ha (1,630,919 ac) that includes the mainstem and Middle Fork of the Clearwater River, plus all watersheds tributary to these large channels except for the North Fork Clearwater above Dworshak Dam and the South Fork Clearwater, Lochsa and Selway drainages. Located within Idaho's Nez Perce, Latah, Lewis, Clearwater, and Idaho counties, the basin has a diverse mix of private (76 percent), Federal (14 percent), State (8 percent), and Nez Perce Tribal (2 percent) ownership. The Lower/Middle Fork Clearwater River CHSU includes 293.7 km (182.6 mi) of streams proposed to be designated as critical habitat.

(A) The Clearwater River from its confluence with the Snake River upstream 119.5 km (74.3 mi) to the confluence with the South Fork Clearwater River, the Middle Fork Clearwater River from the confluence with the South Fork upstream 36.8 km (22.9 mi) to its origin at the confluence of the Lochsa River and Selway River, provide FMO habitat (Clearwater Basin Bull Trout Technical Advisory Team (CBBTTAT) 1998a,b). They also provide functional migratory corridors that may allow fluvial bull trout to move between local populations within and outside this CHSU. The North Fork Clearwater River from its confluence with the Clearwater River upstream 2.6 km (1.6 mi) to the base of Dworshak Dam provides important thermal refuge during summer.

(B) Lolo Creek from its confluence with the Clearwater River upstream 72.9 km (45.3 mi) to the headwaters provides rearing and migratory habitat (CBBTTAT 1998a; USFS 1999a).

(C) Clear Creek from its confluence with the Middle Fork Clearwater River upstream 34.7 km (21.5 mi) to the headwaters is occupied habitat (CBBTTAT 1998d), Middle Fork Clear Creek from its mouth upstream 10.8 km (6.7 mi) to the headwaters, and South Fork Clear Creek from its mouth upstream 15.9 km (9.9 mi) to the headwaters are areas where occupancy is unknown. These areas are essential to maintaining the existing bull trout distribution, and to expand habitat as essential for the conservation of bull trout (USFWS 2002).

##### (ii) North Fork Clearwater River CHSU

The North Fork Clearwater River CHSU lies within a drainage basin of approximately 632,348 ha (1,562,561 ac) that includes the entire North Fork Clearwater River system above Dworshak Dam, excluding the small portion of the Lake Creek drainage upstream of Japanese Creek. Located within Clearwater, Idaho, and Shoshone

counties, the basin landownership is a mixture of Federal (67 percent), State (12 percent), and private (21.0 percent). The areas proposed for designation as critical habitat in this CHSU include a total of 918.9 km (571.1 mi) of streams, and the full 6,656 ha (16,441 ac) pool of Dworshak Reservoir.

(A) Dworshak Reservoir (6,656 ha (16,441 ac)), the North Fork Clearwater River from the head of the reservoir upstream 164.8 km (102.4 mi) to Kelly Forks, Freeman Creek from the confluence with Dworshak Reservoir upstream 2.5 km (1.6 mi) to an unnamed tributary, Breakfast Creek from its confluence with Little North Fork Clearwater River upstream 6.1 km (3.8 mi) to the mouth of Stony Creek, and Stony Creek from its mouth upstream 5.9 km (3.7 mi) to the mouth of Glover Creek provide FMO habitat for upstream bull trout populations. Floodwood Creek from its confluence with Breakfast Creek upstream 21.8 km (13.6 mi) to an unnamed tributary provides FMO habitat (D. Schiff, IDFG, pers. comm., 2002), and West Fork Floodwood Creek from its mouth upstream 6.7 km (4.2 mi) to an unnamed tributary provides rearing habitat (CBBTTAT 1998c).

(B) The Little North Fork Clearwater River from Dworshak Reservoir upstream 72.5 km (45.1 mi) to a gradient break near the headwaters provides FMO and rearing habitat (CBBTTAT 1998c). Sawtooth Creek from its confluence with the Little North Fork Clearwater River upstream 13.4 km (8.3 mi) to an unnamed tributary is historic habitat (USFS 1935) and is adjacent to habitat known to be occupied, and provides habitat necessary for the recovered distribution of bull trout (Skille 1991; USFWS 2002). Canyon Creek from its confluence with the Little North Fork Clearwater River upstream 15.5 km (9.7 mi) to an unnamed tributary is occupied habitat (D. Schiff, IDFG, pers. comm., 2002). Montana Creek from its confluence with the Little North Fork Clearwater River upstream 5.5 km (3.4 mi) to an unnamed tributary provides spawning and rearing habitat (CBBTTAT 1998c). Butte Creek from its confluence with the Little North Fork Clearwater River upstream 3.0 km (1.8 mi) to an unnamed tributary provides spawning and rearing habitat (D. Schiff, IDFG, pers. comm., 2002). Rutledge Creek from its confluence with the Little North Fork Clearwater River upstream 5.2 km (3.2 mi) to an unnamed tributary; Jungle Creek from its confluence with the Little North Fork Clearwater River upstream 4.3 km (2.7 mi) to an unnamed tributary; Adair Creek from its confluence with the Little North Fork Clearwater River upstream 4.7 km (2.9

mi) to a break in stream gradient; Lund Creek from its confluence with the Little North Fork Clearwater River upstream 4.3 km (2.7 mi) to a break in stream gradient; and Little Lost Lake Creek from its confluence with the Little North Fork Clearwater River upstream 6.1 km (3.8 mi) to the headwaters provide spawning and rearing habitat (CBBTTAT 1998c). Lost Lake Creek from the mouth upstream 5.7 km (3.6 mi) to the headwaters is occupied (D. Schiff, IDFG pers. comm., 2002), but the habitat usage type is unknown. Another Butte Creek, this one a tributary to the North Fork Clearwater River between the confluence with the Little North Fork Clearwater River and the confluence with Isabella Creek, upstream 2.2 km (1.3 mi) from the mouth is occupied habitat of unknown usage (D. Weigel, U.S. Bureau of Reclamation (BOR), pers. comm., 2002).

(C) Isabella Creek from its confluence with the North Fork Clearwater River upstream 11.6 km (7.2 mi) to the confluence with Falls Creek is occupied rearing habitat (Platts *et al.* 1993) and above that point fish have been found (D. Weigel, pers. comm., 2002; E. Kee, Clearwater National Forest, pers. comm., 2002) of an age class that indicate spawning and rearing is likely occurring.

(D) Beaver Creek from its confluence with the North Fork Clearwater River upstream 4.2 km (2.6 mi) to Sourdough Creek is occupied habitat of unknown usage (D. Schiff, IDFG, pers. comm., 2002). Sneak Creek from its confluence with the North Fork Clearwater River upstream 0.3 km (0.2 mi) to a barrier falls provides spawning and rearing habitat (CBBTTAT 1998c).

(E) Skull Creek from its confluence with the North Fork Clearwater River upstream 24.3 km (15.1 mi) to the headwaters, and Collins Creek from its confluence with Skull Creek upstream 16.2 km (10.0 mi) to a gradient break near the headwaters provide spawning and rearing habitat (CBBTTAT 1998c; E. Kee, pers. comm., 2002). Roaring Creek from its confluence with Skull Creek upstream 4.3 km (2.7 mi) to Frost Creek is of unknown occupancy (*i.e.*, bull trout surveys have not been conducted), but appropriate habitat conditions in Skull Creek (C. Huntington, Clearwater BioStudies, Inc. (CBI), pers. comm., 2002) and the presence of rearing juvenile bull trout in nearby streams support its inclusion as proposed critical habitat necessary to provide spawning and rearing areas to support local population viability and genetic integrity. Frost Creek from its confluence with Roaring Creek upstream 2.7 km (1.7 mi) to the

headwaters provides, at a minimum, rearing habitat (E. Kee, pers. comm., 2002).

(F) Quartz Creek from its confluence with the North Fork Clearwater River upstream 19.7 km (12.2 mi) to Henry Creek provides rearing and migratory habitat (CBBTTAT 1998c; D. Schiff, IDFG, pers. comm., 2002).

(G) Rock Creek from its confluence with the North Fork Clearwater River upstream 10.2 km (6.2 mi) to the abandoned road crossing at approximately rkm 10.2 (rmi 6.2), and Lightning Creek from its confluence with Rock Creek upstream 0.8 km (0.5 mi) to an unnamed tributary provide occupied habitat of unknown usage (CBBTTAT 1998c).

(H) Four streams entering the North Fork Clearwater River between Rock Creek and Weitas Creek including Larson Creek from its mouth upstream 1.0 km (0.6 mi) to an unnamed tributary; Little Washington Creek from its mouth upstream 1.7 km (1.1 mi) to Swanson Creek; Washington Creek from its mouth upstream 2.3 km (1.4 mi) to a potential migration barrier; and Orogrande Creek from its mouth upstream 1.6 km (1.0 mi) to a potential migration barrier are likely to be at least seasonally occupied (CBBTTAT 1998c) and provide habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(I) Weitas Creek from its confluence with the North Fork Clearwater River upstream 43.0 km (26.7 mi) to a gradient break near the headwaters provides FMO habitat in the lower reaches and spawning and rearing habitat in the upper reaches. Johnny Creek from its confluence with Weitas Creek upstream 7.2 km (4.5 mi) to a barrier falls provides FMO habitat (D. Weigel, pers. comm., 2002) and possibly spawning and rearing habitat in the upper reaches (E. Kee, pers. comm., 2002). Middle Creek from its confluence with Weitas Creek upstream 15.5 km (9.7 mi) to Beaver Dam Creek, and Little Weitas Creek from its confluence with Weitas Creek upstream 3.8 km (2.4 mi) to Middle Ridge Creek are likely to be at least seasonally occupied (CBBTTAT 1998c) and provide habitat necessary for the recovered distribution of bull trout (USFWS 2002). Johnagan Creek from its confluence with Weitas Creek upstream 4.4 km (2.7 mi) to an unnamed tributary (E. Kee, pers. comm., 2002), Windy Creek from its confluence with Weitas Creek upstream 13.2 km (8.2 mi) to the headwaters (D. Weigel, pers. comm., 2002; CBI 2000), and Liz Creek from its confluence with Weitas Creek upstream 6.2 km (3.8 mi) to the headwaters (D. Weigel, pers. comm., 2002) provide rearing habitat. Corral Creek from its

confluence with Weitas Creek upstream 7.1 km (4.4 mi) to the headwaters, and Fro Creek from its confluence with Weitas Creek upstream 1.9 km (1.2 mi) to Bald Mountain Lake Creek are likely to be at least seasonally occupied (P. Murphy, USFS, pers. comm., 2002) and provide habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(J) Death Creek from its confluence with the North Fork Clearwater River upstream 1.0 km (0.6 mi) to a break in channel gradient, Fisher Creek from its confluence with the North Fork Clearwater River upstream 1.2 km (0.7 mi) to a break in channel gradient, and Trail Creek from its confluence with the North Fork Clearwater River upstream 1.8 km (1.1 mi) to an unnamed tributary are likely to be at least seasonally occupied (CBBTTAT 1998c), provide seasonal thermal refuge, and provide habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(K) Fourth of July Creek from its confluence with the North Fork Clearwater River upstream 21.7 km (13.5 mi) to the headwaters is occupied (Platts *et al.* 1993) with spawning and rearing habitat in the upper reaches (CBBTTAT 1998c). Shot Creek from its confluence with Fourth of July Creek upstream 8.0 km (5.0 mi) to the headwaters, and Bill Creek from its confluence with Fourth of July Creek upstream 7.5 km (4.7 mi) to the headwaters are likely to be at least seasonally occupied (P. Murphy, pers. comm., 2002) and provide habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(L) Cold Springs Creek from the confluence with the North Fork Clearwater River upstream to a break in channel gradient at km 4.7 (mi 2.9), and Cool Creek from its confluence with the North Fork Clearwater River upstream 1.2 km (0.8 mi) to an unnamed tributary provide habitat necessary to support additional populations of bull trout identified as essential to the conservation of bull trout (USFWS 2002).

(M) Kelly Creek from the confluence with the North Fork Clearwater River upstream 41.3 km (25.6 mi) to North Fork Kelly Creek provides migratory habitat in the lower reaches (D. Schiff, IDFG, pers. comm., 2002), and spawning and rearing habitat in the upper reaches (CBBTTAT 1998c). Junction Creek from its confluence with Kelly Creek upstream to an unnamed tributary at km 2.7 (mi 1.7), and Barnard Creek from its confluence with Kelly Creek upstream 8.3 km (5.2 mi) to the headwaters are likely to be at least seasonally occupied (P. Murphy, pers. comm., 2002) and

provide habitat necessary for the recovered distribution of bull trout (USFWS 2002). Bear Creek from its confluence with Kelly Creek upstream 6.1 km (3.8 mi) to a gradient break (D. Weigel, pers. comm., 2002), South Fork Kelly Creek from its confluence with Kelly Creek upstream 4.3 km (2.7 mi) to Williams Creek (CBBTTAT 1998c), Middle Fork Kelly Creek from its confluence with Kelly Creek upstream 5.1 km (3.2 mi) to Kid Lake Creek (P. Murphy, pers. comm., 2002), Kid Lake Creek from its confluence with Middle Fork Kelly Creek upstream to the USFS Trail 567 crossing at rkm 2.9 (rmi 1.8) (P. Murphy, pers. comm., 2002), and North Fork Kelly Creek from its confluence with Kelly Creek upstream 6.2 km (3.8 mi) to an unnamed tributary (CBBTTAT 1998c) are occupied and provide habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(N) Moose Creek from its confluence with Kelly Creek upstream 15.9 km (9.5 mi) to a gradient break near the headwaters (D. Schiff, IDFG, pers. comm., 2002; CBBTTAT 1998c) and its tributaries Ruby Creek from its mouth upstream 2.7 km (1.7 mi) to a break in channel gradient (CBI 1999), Little Moose Creek from its mouth upstream 16.2 km (10.0 mi) to a break in channel gradient near section line 25/26 (D. Schiff, IDFG, pers. comm., 2002), Osier Creek from the mouth upstream 13.0 km (8.1 mi) to the headwaters (D. Schiff, IDFG, pers. comm., 2002), and Swamp Creek from its confluence with Osier Creek upstream 8.7 km (5.4 mi) to an unnamed tributary provide migratory and spawning and rearing habitat. Sugar Creek from its confluence with Moose Creek upstream 6.4 km (4.0 mi) to the headwaters provides habitat necessary for the expansion of bull trout populations that are essential for conservation of the species (USFWS 2002). Pollock Creek from its confluence with Swamp Creek upstream to a barrier falls near rkm 2.7 (rmi 1.7) contains excellent habitat necessary to support the recovered distribution of bull trout (C. Huntington, CBI, pers. comm., 2002; USFWS 2002).

(O) Cayuse Creek from its confluence with Kelly Creek upstream 52.7 km (32.8 mi) to a break in channel gradient near the headwaters provides rearing habitat (CBBTTAT 1998c). Toboggan Creek from its confluence with Cayuse Creek upstream 13.0 km (8.0 mi) to an unnamed tributary (Platts *et al.* 1993; C. Huntington, CBI, pers. comm., 2002), and Monroe Creek from its mouth to its confluence with Cayuse Creek upstream 2.1 km (1.3 mi) to an unnamed tributary (Platts *et al.* 1993; CBBTTAT 1998c)

provide, at a minimum, migratory habitat. Gravey Creek from its confluence with Cayuse Creek upstream 14.3 km (8.9 mi) to the headwaters is historic habitat (CBBTTAT 1998c) that is targeted for restoration efforts to provide for the recovered distribution of bull trout (USFWS 2002). Mae Creek from its confluence with Gravey Creek upstream 0.7 km (0.4 mi) to the USFS Road 107A crossing, and Marten Creek from its confluence with Gravey Creek upstream 7.2 km (4.5 mi) to the headwaters area targeted for restoration efforts to provide for the recovered distribution of bull trout (USFWS 2002). Tributaries to Gravey Creek, Howard Creek from its mouth upstream 10.1 km (6.3 mi) to the headwaters, Weasel Creek from its mouth upstream to a break in channel gradient near rkm 2.9 (rmi 1.8), Mink Creek from its mouth upstream to a break in gradient near rkm 3.4 (rmi 2.1), and Silver Creek from its mouth upstream 5.4 km (3.4 mi) to a break in gradient are likely to be at least seasonally occupied, contain excellent bull trout habitat (P. Murphy, pers. comm., 2002) and provide habitat essential to the conservation of bull trout (USFWS 2002).

(P) North Fork Clearwater River from Kelly Forks at rkm 164.8 (rmi 102.4) upstream 47.8 km (29.7 mi) to the headwaters provides FMO habitat. Pete Ott Creek from its confluence with the North Fork Clearwater River upstream 0.7 km (0.5 mi) to an unnamed tributary, and Elizabeth Creek from its confluence with the North Fork Clearwater River upstream 1.2 km (0.7 mi) to an unnamed tributary provide FMO habitat (Platts *et al.* 1993; CBBTTAT 1998c). Hidden Creek from its confluence with the North Fork Clearwater River upstream 3.7 km (2.3 mi) to an unnamed tributary provides rearing habitat (CBBTTAT 1998c). Deception Gulch from its confluence with the North Fork Clearwater River upstream 8.4 km (5.2 mi) to the headwaters is suspected to be occupied (P. Murphy, pers. comm., 2002; CBBTTAT 1998c) and is targeted for restoration efforts and is essential to provide for the conservation of bull trout (USFWS 2002). Lake Creek from its confluence with the North Fork Clearwater River upstream 12.3 km (7.7 mi) to Japanese Creek; Goose Creek from its confluence with Lake Creek upstream 8.2 km (5.1 mi) to an unnamed tributary; Long Creek from its confluence with the North Fork Clearwater River upstream 11.3 km (7.0 mi) to an unnamed tributary; Short Creek from its confluence with Long Creek upstream 3.7 km (2.3 mi) to a break in channel gradient; Rawhide

Creek from its confluence with Long Creek upstream 5.5 km (3.4 mi) to a break in channel gradient; Slate Creek from its confluence Long Creek upstream 4.0 km (2.5 mi) to the headwaters; an unnamed Long Creek tributary from its mouth upstream 1.5 km (0.9 mi) to an unnamed tributary; Meadow Creek from its confluence with the North Fork Clearwater River upstream 20.3 km (12.6 mi) to the headwaters; Vanderbilt Gulch from its confluence with the North Fork Clearwater River upstream 9.4 km (5.9 mi) to the headwaters; Chamberlain Creek from its confluence with the North Fork Clearwater River upstream 5.4 km (3.3 mi) to the headwaters; Placer Creek from its confluence with the North Fork Clearwater River upstream 3.6 km (2.3 mi) to the headwaters; Bostonian Creek from its confluence with the North Fork Clearwater River upstream 8.0 km (5.0 mi) to the headwaters; Niagara Gulch from its confluence with the North Fork Clearwater River upstream 1.9 km (1.2 mi) to an unnamed tributary; Boundary Creek from its confluence with the North Fork Clearwater River upstream 3.0 km (1.9 mi) to a break in channel gradient; and Graves Creek from its mouth to its confluence with the North Fork Clearwater River upstream 3.1 km (1.9 mi) to a break in channel gradient provide FMO and spawning and rearing habitat (CBBTTAT 1998c; D. Weigel, pers. comm., 2002; CBI 1994; D. Schiff, IDFG, pers. comm., 2002).

#### (iii) Fish Lake (North Fork) CHSU

The Fish Lake (North Fork) CHSU lies within a small headwater basin of approximately 1,433 ha (3,541 ac) that is situated upstream of Japanese Creek in the Lake Creek drainage of the North Fork Clearwater River system. Located in Clearwater County and entirely within the Clearwater National Forest, the basin is dominated by Fish Lake, the largest mountain lake in north-central Idaho.

(A) Lake Creek (a tributary to the North Fork Clearwater River) from Fish Lake downstream 6.1 km (3.8 mi) to Japanese Creek provides spawning and rearing habitat (CBBTTAT 1998c; D. Weigel, pers. comm., 2002). Fish Lake (47 ha (16 ac) in size) provides FMO habitat. Four unnamed and unmapped inlets that enter Fish Lake on the eastern end of the lake, and a fifth unnamed inlet on the north side from their confluence with Fish Lake upstream to their source(s) provide spawning and rearing habitat (USFWS 2002).

## (iv) South Fork Clearwater River CHSU

The South Fork Clearwater River CHSU lies within a drainage basin of approximately 304,516 ha (752,474 ac) that includes the entire stream network of the South Fork Clearwater River located within Idaho and Nez Perce counties. Landownership in the basin is a mixture of Federal (70 percent), private (30 percent), State (less than 1 percent), and Tribal (less than 1 percent), with private lands dominant in the lower portion of the area. However, streams proposed for critical habitat designation are primarily associated with Federal lands. Of 522.7 km (324.8 mi) of streams proposed for designation as critical bull trout habitat, 85 percent are on Federal land, less than 1 percent on State land, less than 1 percent on Tribal land, and 15 percent on private lands.

(A) The South Fork Clearwater River from its mouth on the mainstem Clearwater River upstream 100.3 km (62.3 mi) to its origin at the confluence of the Red River and the American River provides FMO habitat (CBBTTAT 1998d). It also provides a migratory corridor that allows fluvial bull trout to move between local populations within this CHSU and provides the opportunity for genetic exchange between local populations.

(B) Mill Creek from its confluence with the South Fork Clearwater River upstream 13.6 km (8.5 mi) to Merton Creek, and Merton Creek from its mouth upstream 1.6 km (1.0 mi) to an unnamed tributary provide rearing habitat (W. Paradis, USFS, pers. comm., 2002) as well as habitat essential to the conservation of bull trout (USFWS 2002).

(C) Johns Creek from its confluence with the South Fork Clearwater River upstream approximately 30.9 km (19.3 mi) to a gradient break near the headwaters; Gospel Creek from its confluence with Johns Creek upstream 3.1 km (2.0 mi) to Moores Lake Creek; Moores Lake Creek from its confluence with Gospel Creek upstream 3.4 km (2.1 mi) to the USFS Trail 305 crossing; Open Creek from its confluence with Johns Creek upstream 1.5 km (0.9 mi) to a break in channel gradient; Moores Creek from its confluence with Johns Creek upstream 8.2 km (5.1 mi) to a barrier; Twin Lakes Creek from its confluence with Johns Creek upstream 1.9 km (1.5 mi) to Hagen Creek; Hagen Creek from its mouth upstream to an unnamed tributary at rkm 2.3 (rmi 1.5); and Taylor Creek from its confluence with Johns Creek upstream 2.7 km (1.7 mi) to an unnamed tributary provide

spawning and rearing habitat (Spangler 1997; CBBTTAT 1998d).

(D) Silver Creek from its confluence with the South Fork Clearwater River upstream 0.2 km (0.1 mi) to a barrier falls; Wing Creek from its confluence with the South Fork Clearwater River upstream 0.3 km (0.2 mi) to a barrier falls; and Twentymile Creek from its confluence with the South Fork Clearwater upstream 0.2 km (0.1 mi) to a barrier falls are positioned between bull trout strongholds in Johns Creek (see above) and Tenmile Creek (see below) and provides foraging and thermal refuge habitat (USFS 1999b).

(E) Tenmile Creek from the confluence with the South Fork Clearwater River upstream 22.6 km (14.0 mi) to a break in channel gradient above Wiseboy Creek; Sixmile Creek from its confluence with Tenmile Creek upstream 1.4 km (0.9 mi) to a barrier falls; Williams Creek from its confluence with Tenmile Creek upstream 8.4 km (5.2 mi) to the headwaters; and Wiseboy Creek from its confluence with Tenmile Creek upstream 0.9 km (0.6 mi) to an unnamed tributary provide spawning and rearing habitat (Spangler 1997; CBBTTAT 1998d; W. Paradis, USFS, pers. comm., 2002; D. Mays, USFS, pers. comm., 2002).

(F) Buckhorn Creek from its confluence with the South Fork Clearwater River upstream 0.3 km (0.2 mi) to an unnamed tributary foraging and thermal refuge habitat (D. Mays, USFS, pers. comm., 2002).

(G) Newsome Creek from its confluence with the South Fork Clearwater River upstream 25.2 km (15.7 mi) to the headwaters; West Fork Newsome Creek from its confluence with Newsome Creek upstream 8.0 km (5.0 mi) to a migration barrier; and Bear Creek from its confluence with Newsome Creek upstream 2.7 km (1.6 mi) to an unnamed tributary provide spawning and/or rearing habitat (D. Mays, USFS, pers. comm., 2002; CBBTTAT 1998d). Beaver Creek from its confluence with Newsome Creek upstream 8.0 km (5.0 mi) to the headwaters is suspected to provide spawning and rearing habitat (CBBTTAT 1998d) and is essential to the conservation of bull trout (USFWS 2002). Pilot Creek from its confluence with Newsome Creek upstream 9.6 km (5.9 mi) to the headwaters; an unnamed Pilot Creek tributary from its mouth upstream 1.3 km (0.8 mi) to another unnamed tributary; a second unnamed Pilot Creek tributary from its mouth upstream 0.6 km (0.4 mi) to a gradient break near the headwaters; Baldy Creek from its confluence with Newsome

Creek upstream 6.0 km (3.8 mi) to an unnamed tributary; and Mule Creek from its confluence with Newsome Creek upstream 0.9 km (0.6 mi) to an unnamed tributary provide spawning and rearing habitat (CBBTTAT 1998d; IDFG, unpublished 2001; D. Mays, USFS, pers. comm., 2002).

(H) Crooked River from its confluence with the South Fork Clearwater River upstream 18.8 km (11.7 mi) to the confluence of the East and West Forks; Relief Creek from its confluence with the West Fork Crooked River upstream 2.2 km (1.3 mi) to East Fork Relief Creek; West Fork Crooked River from its confluence with the East Fork Crooked River upstream approximately 5.4 km (3.4 mi) to a barrier falls; an unnamed tributary to the West Fork Crooked River from its mouth upstream approximately 1.0 km (0.6 mi) to a break in channel gradient; and East Fork Crooked River from its confluence with the West Fork upstream approximately 2.7 km (1.7 mi) to the distribution limit of bull trout provide spawning and rearing habitat (J. Brostrom, IDFG, pers. comm., 2002; D. Mays, USFS, pers. comm., 2002; CBBTTAT 1998d).

(I) Red River from its confluence with the Crooked River and American River upstream 45.9 km (28.5 mi) to the headwaters; Red Horse Creek from its confluence with the Red River upstream 9.1 km (5.6 mi) to an unnamed tributary; Siegel Creek from its confluence with the Red River upstream 2.7 km (1.7 mi) to Boyer Creek; Dawson Creek from its confluence with the Red River upstream 3.7 km (2.3 mi) to the headwaters; Little Moose Creek from its confluence with the Red River upstream 3.0 km (1.8 mi) to an unnamed tributary; Moose Butte Creek from its confluence with the Red River upstream 7.4 km (4.6 mi) to an unnamed tributary; South Fork Red River from its confluence with the Red River upstream 18.7 km (11.7 mi) to the headwaters; Trapper Creek from its confluence with the South Fork Red River upstream 10.6 km (6.6 mi) to the headwaters; West Fork of South Fork Red River from its mouth upstream 4.9 km (3.0 mi) to an unnamed tributary; Middle Fork of South Fork Red River from its mouth upstream 6.1 km (3.8 mi) to the headwaters; Ditch Creek from its confluence with the Middle Fork of South Fork Red River upstream 6.3 km (3.9 mi) to the headwaters; Soda Creek from its confluence with the Red River upstream 1.8 km (1.1 mi) to the limit of known use by bull trout; Baston Creek from its confluence with the Red River upstream 3.6 km (2.2 mi) to the headwaters; Otterson Creek from its confluence with the Red River upstream 5.6 km (3.5 mi) to the headwaters; and



Bridge Creek from its confluence with the Red River upstream 6.4 km (4.0 mi) to the headwaters provide FMO and spawning and rearing habitat (CBBTTAT 1998d; USFS 1999b; IDFG, unpublished 2001; D. Mays, USFS, pers. comm., 2002).

(J) American River from its confluence with the Red River and the South Fork Clearwater River upstream 27.4 km (17.0 mi) to the mouth of Limber Luke Creek provides FMO habitat (CBBTTAT 1998d). Elk Creek from its confluence with the American River upstream 3.8 km (2.3 mi) to Big Elk Creek, and Big Elk Creek from its mouth upstream 15.5 km (9.6 mi) to the headwaters provide habitat that is essential to supporting the recovered distribution of bull trout (USFWS 2002). Little Elk Creek from its confluence with Elk Creek upstream 14.8 km (9.2 mi) to the headwaters is occupied (USFS 1999b) and provides habitat for the recovered distribution of bull trout (USFWS 2002). Kirks Fork of American River from its mouth upstream 2.1 km (1.3 mi) to Wigwam Creek; East Fork American River from its mouth upstream 10.5 km (6.5 mi) to the headwaters; and Flint Creek from its confluence with the East Fork American River upstream 3.0 km (1.9 mi) to an unnamed tributary are likely to be occupied (CBBTTAT 1998d; USFS 1999b) and provide habitat essential to the conservation of bull trout (USFWS 2002). West Fork American River from its mouth upstream 8.0 km (5.0 mi) to the headwaters and Lick Creek from its confluence with the American River upstream 6.0 km (3.7 mi) to the headwaters provide habitat essential to the conservation of bull trout (USFWS 2002).

#### (v) Lochsa River CHSU

The Lochsa River CHSU lies within a drainage basin of about 303,019 ha (748,773 ac) that includes the entire stream network of the Lochsa River system other than that portion of the Lake Creek drainage upstream of California Creek. Located within Idaho County, landownership is predominantly Federal (95 percent, all in the Clearwater National Forest), but also includes some private property (5 percent).

(A) The mainstem Lochsa River from its confluence with the Selway River upstream 110.5 km (68.7 mi) to its origin at the confluence of Crooked Fork and Colt Killed Creek provides FMO habitat (CBBTTAT 1998b), as well as a migratory corridor that provides an opportunity for bull trout to move between local populations within and outside this CHSU.

(B) Canyon Creek from its confluence with the Lochsa River upstream 1.0 km (0.6 mi) to South Fork. Canyon Creek; Deadman Creek from its confluence with the Lochsa River upstream 3.4 km (2.1 mi) to East Fork. Deadman Creek; Coolwater Creek from its confluence with the Lochsa River upstream 2.2 km (1.4 mi) to an unnamed tributary; Bimerick Creek from its confluence with the Lochsa River upstream 0.7 km (0.4 mi) to a barrier falls; and Fire Creek from its confluence with the Lochsa River upstream 1.2 km (0.8 mi) to an unnamed tributary. Bull trout have been recently noted in Deadman, Coolwater, Fire Creeks (CBI 1992; Platts *et al.* 1993; IDFG Clearwater Data Base, unpublished 2002a). These tributaries provide biologically important opportunities for foraging and thermal refuge along a section of river known for summer water temperatures stressful to salmonids.

(C) Split Creek from its confluence with the Lochsa River upstream 11.3 km (7.0 mi) to the headwaters is occupied (CBI 1992; IDFG Clearwater Data Base, unpublished 2002a) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(D) Old Man Creek from its confluence with the Lochsa River upstream 11.4 km (7.1 mi) to Chimney Creek provides habitat essential to the long-term conservation of bull trout (USFWS 2002).

(E) Fish Creek from its confluence with the Lochsa River upstream 32.5 km (20.2 mi) to the headwaters, and Hungry Creek from its confluence with Fish Creek upstream 21.8 km (13.5 mi) to the headwaters are occupied (Platts *et al.* 1993; CBBTTAT 1998b) and provide habitat essential to the recovered distribution of bull trout (USFWS 2002).

(F) Boulder Creek from its confluence with the Lochsa River upstream 9.8 km (6.1 mi) to Thimble Creek, the approximate location of an apparent migration barrier, is likely occupied (Platts *et al.* 1993; CBBTTAT 1998b) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(G) Bald Mountain Creek from its confluence with the Lochsa River upstream 2.3 km (1.4 mi) to an unnamed tributary, and Stanley Creek from its confluence with the Lochsa River upstream 2.0 km (1.2 mi) to an unnamed tributary are suspected to be at least seasonally occupied (CBBTTAT 1998b). It also provides subadult or adult bull trout opportunities for foraging and thermal refuge along a section of river where mid-summer water temperatures are well above those preferred by the species.

(H) Indian Grave Creek from its confluence with the Lochsa River upstream 7.7 km (4.8 mi) to the headwaters appears to be at least seasonally occupied (Platts *et al.* 1993; CBBTTAT 1998b) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(I) Weir Creek from its confluence with the Lochsa River upstream 9.5 km (5.9 mi) to the headwaters is occupied (CBBTTAT 1998b) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(J) Lake Creek from its mouth at the Lochsa River upstream 16.2 km (10.0 mi) to California Creek; Freezeout Creek from its confluence with Lake Creek upstream 7.3 km (4.6 mi) to the headwaters; and California Creek from its mouth upstream 3.0 km (1.9 mi) to a break in channel gradient provide habitat essential to the conservation of bull trout (USFWS 2002).

(K) Postoffice Creek from its confluence with the Lochsa River upstream 8.9 km (5.5 mi) to a break in channel gradient, and West Fork Postoffice Creek from its mouth upstream 3.6 km (2.2 mi) to an unnamed tributary provide habitat essential to the conservation of bull trout (USFWS 2002). Postoffice Creek is also known to be occupied (IDFG Clearwater Data Base, unpublished 2002a; CBBTTAT 1998b).

(L) Warm Springs Creek from its confluence with the Lochsa River upstream 5.8 km (3.6 mi) to a barrier falls, and Cooperation Creek from its confluence with Warm Springs Creek upstream 5.5 km (3.4 mi) to a break in channel gradient provide spawning and rearing habitat for the Warm Spring local population (USFWS 2002; D. Weigel, pers. comm., 2002).

(M) Fishing (Squaw) Creek from its confluence with the Lochsa River upstream 10.1 km (6.3 mi) to a seasonally dry channel segment; Doe Creek from its confluence with Fishing (Squaw) Creek upstream 8.8 km (5.5 mi) to an unnamed tributary; West Fork Fishing Creek from its mouth upstream 4.2 km (2.6 mi) to an unnamed tributary; Spring Creek from its confluence with West Fork Fishing Creek upstream 1.6 km (1.0 mi); and East Fork Fishing Creek from its mouth upstream 1.5 km (0.9 mi) to a small unnamed tributary provide spawning and rearing habitat for the Fishing (Squaw) Creek local population (USFWS 2002).

(N) Badger Creek from its confluence with the Lochsa River upstream 1.5 km (0.9 mi) to an unnamed tributary, and Wendover Creek from its mouth upstream 1.6 km (1.0 mi) to West Fork Wendover Creek have suitable habitat.



Wendover Creek is likely to be currently occupied, at least seasonally (Platts *et al.* 1993; CBBTTAT 1998b). Badger Creek is identified for high priority restoration activities (*i.e.*, barrier removal at the mouth) and is essential to the conservation of bull trout (USFWS 2002).

(O) Legendary Bear (Papoose) Creek from its confluence with the Lochsa River upstream 3.0 km (1.9 mi) to West Fork Legendary Bear Creek; Parachute Creek from its confluence with Legendary Bear (Papoose) Creek upstream 0.4 km (0.3 mi) to a potential barrier; West Fork Legendary Bear Creek from its mouth upstream 7.3 km (4.5 mi) to an unnamed tributary; and East Fork Legendary Bear Creek from its mouth upstream 4.2 km (2.6 mi) to an unnamed tributary provide spawning and rearing habitat for the Legendary Bear (Papoose) Creek local population of bull trout (CBBTTAT 1998b; USFWS 2002).

(P) Walton Creek from its mouth upstream 4.4 km (2.7 mi) to a break in channel gradient provides spawning and rearing habitat for the Walton Creek local population of bull trout (USFWS 2002).

(Q) Colt Killed Creek from its mouth upstream 33.8 km (21.0 mi) to Garnet Creek; Big Flat Creek from its confluence with Colt Killed Creek upstream 13.5 km (8.4 mi) to its headwaters; Beaver Creek from its mouth at Colt Killed Creek upstream 12.2 km (7.6 mi) to the headwaters; Storm Creek from its mouth at Colt Killed Creek upstream 17.0 km (10.6 mi) to North Fork Storm Creek; and Maud Creek from its confluence with Storm Creek upstream 10.1 km (6.3 mi) to the headwaters provide spawning and rearing habitat for the Colt Killed Creek local population of bull trout (CBI 1989; CBI 1996; P. Murphy, pers. comm., 2002; USFWS 2002).

(R) Crooked Fork from its confluence with the Lochsa River upstream 21.7 km (13.5 mi) to Boulder Creek provides FMO and rearing habitat (CBBTTAT 1998b). Haskell Creek from its confluence with Crooked Fork upstream 4.5 km (2.8 mi) to the headwaters; Rock Creek from its confluence with Crooked Fork upstream 1.8 km (1.1 mi) to a small unnamed tributary; Shotgun Creek from its confluence with Crooked Fork upstream 7.6 km (4.7 mi) to the headwaters; Boulder Creek from its confluence with Crooked Fork upstream 10.5 km (6.5 mi) to an unnamed tributary; Fox Creek from its mouth at Boulder Creek upstream 5.6 km (3.5 mi) to a gradient break near the headwaters; Williams Lake Creek from its confluence with Boulder Creek upstream 4.2 km (2.6 mi) to an unnamed tributary;

Crooked Fork Creek from its confluence with Boulder Creek upstream 12.4 km (7.7 mi) to a gradient break near the headwaters; Hopeful Creek from its confluence with Crooked Fork Creek upstream 7.4 km (4.6 mi) to the headwaters; and an unnamed Hopeful Creek tributary from its mouth upstream 4.7 km (2.9 mi) to the headwaters provide spawning and rearing habitat for the Crooked Fork local population (Watson and Hillman 1997; CBI 1997; CBBTTAT 1998b; USFWS 2002).

(S) Brushy Fork Creek from the confluence with the Crooked Fork upstream 16.2 km (10.0 mi) to Spruce Creek; Twin Creek from its confluence with Brushy Fork Creek upstream 4.7 km (2.9 mi) to a barrier falls; Spruce Creek from its confluence with Brushy Fork Creek upstream 5.6 km (3.5 mi) to South Fork Spruce Creek; Shoot Creek from its confluence with Spruce Creek upstream 3.4 km (2.1 mi) to a break in channel gradient; South Fork Spruce Creek from its mouth upstream 6.4 km (4.0 mi) to a break in channel gradient; and North Fork Spruce Creek from its mouth upstream 4.0 km (2.5 mi) to an unnamed tributary provide spawning and rearing habitat for the Brushy Fork Creek local population (CBBTTAT 1998b; USFWS 2002; D. Weigel, pers. comm., 2002).

#### (vi) Fish Lake (Lochsa) CHSU

The Fish Lake (Lochsa) CHSU lies within a 2,131 ha (5,267 ac) glacially formed drainage basin in the headwaters of Lake Creek, a major tributary to the Lochsa River. It is in Idaho County and is situated entirely within a portion of the Selway-Bitterroot Wilderness Area administered by the Clearwater National Forest. This area supports one of only two naturally adfluvial bull trout populations within the entire Clearwater River unit.

(A) Lake Creek from California Creek upstream 5.8 km (3.6 mi) to Fish Lake, all 22 ha (54 ac) of Fish Lake, and Lake Creek from Fish Lake upstream 2.3 km (1.5 mi) to a break in channel gradient near the headwaters constitutes all habitat thought to be used by the Fish Lake Creek local population. Bull trout spawn in Lake Creek both below and above Fish Lake (P. Murphy, pers. comm., 2002), and grow to adulthood in the lake itself (USFWS 2002).

#### (vii) Selway River CHSU

The Selway River CHSU lies within a 520,232 ha (1,285,516 ac) drainage basin that includes the Selway River and all of its tributaries. Located in Idaho and Clearwater counties, 85 percent of this basin is within the boundaries of the Selway-Bitterroot and Frank Church-

River of No Return wilderness areas (USFS 2001b). Virtually all of the Selway River CHSU is administered by three National Forests: the Nez Perce, Bitterroot, and Clearwater (USFS 1999b). A total of approximately 780.8 km (485.3 mi) of stream are proposed for critical habitat designation as part of the Selway River CHSU. The proposed designations are comprised of Federal land (nearly 100 percent) and private lands (less than 1 percent).

(A) The Selway River from its confluence with the Lochsa River upstream 146.4 km (88.5 mi) to Wilkerson Creek provides FMO habitat for fluvial bull trout (CBBTTAT 1998b), and a highly functional migratory corridor that provides an opportunity for bull trout to move between multiple local populations within and outside this CHSU. Recent field sampling indicates that above the Little Clearwater River confluence, at rkm 121.3 (rmi 75.3), the Selway River is also used as rearing habitat by juvenile bull trout (General Parr Monitoring database 2002). Goddard Creek, a tributary to the Selway River between the mouth and O'Hara Creek, from its mouth upstream 0.8 km (0.5 mi) to an unnamed tributary, is likely to be at least seasonally occupied by foraging adults (CBBTTAT 1998b) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(B) O'Hara Creek from its confluence with the Selway River upstream 12.4 km (7.7 mi) to its origin at the confluence of the East and West Forks of O'Hara Creek; East Fork O'Hara Creek from its mouth upstream 8.1 km (5.0 mi) to the headwaters; and West Fork O'Hara Creek from its mouth upstream 9.3 km (5.8 mi) to the headwaters are known to be occupied in the lower reaches (IDFG General Parr Monitoring database, unpublished 2002b) and provide habitat essential to the conservation of bull trout (USFWS 2002).

(C) Four tributaries to the Selway River between O'Hara Creek and Gedney Creek, Rackliff Creek from its mouth upstream 2.2 km (1.4 mi) to an unnamed tributary; Boyd Creek from its mouth upstream 1.9 km (1.2 mi) to a break in channel gradient; Glover Creek from its mouth upstream 1.5 km (0.9 mi) to an unnamed tributary; and Falls Creek from its mouth upstream 1.4 km (0.9 mi) to a break in channel gradient are suspected to provide at least seasonal habitat for foraging bull trout (CBBTTAT 1998b), are prioritized for restoration efforts (Boyd Creek), and provide habitat essential to the conservation of bull trout (USFWS 2002).

(D) Gedney Creek from its confluence with the Selway River upstream 12.5 km (7.8 mi) to an unnamed tributary and West Fork Gedney Creek from its mouth upstream 2.0 km (1.2 mi) to a barrier falls are occupied. Spawning and rearing is suspected (A. Byrne, IDFG, pers. comm., 2002) and this area provides habitat essential to the conservation of bull trout (USFWS 2002).

(E) Meadow Creek from its confluence with the Selway River upstream 67.9 km (42.2 mi) to an unnamed tributary; Schwar Creek from its confluence with Meadow Creek upstream 3.5 km (2.2 mi) to a barrier falls; and East Fork Meadow Creek from its mouth upstream 11.1 km (6.9 mi) to the headwaters provide spawning and rearing habitat for the Meadow Creek local population (CBBTTAT 1998b; IDFG/FIS database, unpublished 2002c).

(F) Two tributaries to the Selway River between Meadow Creek and Mink Creek, Otter Creek from its confluence with the Selway River upstream 1.0 km (0.6 mi) to a barrier falls (suspected to be occupied (CBBTTAT 1998b)), and Three Links Creek from its confluence with the Selway River upstream 6.5 km (4.0 mi) to West Fork Three Links Creek (documented as occupied (USFWS 2002)) provide habitat essential to the conservation of bull trout (USFWS 2002).

(G) Mink Creek from its confluence with the Selway River upstream 11.9 km (7.4 mi) to an unnamed tributary is suspected to be occupied (CBBTTAT 1998b) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(H) Marten Creek from its confluence with the Selway River upstream 18.3 km (11.4 mi) to a break in channel gradient near the headwaters is occupied (CBBTTAT 1998b) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(I) Moose Creek from its confluence with the Selway River upstream 6.1 km (3.8 mi) to the confluence of North Fork Moose Creek and East Fork Moose Creek; North Fork Moose Creek from its mouth upstream 19.4 km (12.0 mi) to an unnamed tributary; Rhoda Creek from its confluence with North Fork Moose Creek upstream 5.0 km (3.1 mi) to Wounded Doe Creek; Wounded Doe Creek from its mouth upstream 11.4 km (7.1 mi) to an unnamed tributary; East Fork Moose Creek from its mouth upstream 26.7 km (16.6 mi) to a potential barrier falls; and Cedar Creek from its mouth at East Fork Moose Creek upstream 10.1 km (6.3 mi) to an unnamed tributary provide spawning and rearing habitat (CBBTTAT 1998b;

USFS 2001b; IDFG Clearwater database, unpublished 2002a).

(J) Pettibone Creek from its confluence with the Selway River upstream 5.3 km (3.3 mi) to an unnamed tributary is suspected to be occupied (CBBTTAT 1998b) and provides habitat essential to the conservation of bull trout (USFWS 2002).

(K) Bear Creek from its confluence with the Selway River upstream 33.2 km (20.7 mi) to an unnamed tributary; Cub Creek from its confluence with Bear Creek upstream 15.0 km (9.3 mi) to a barrier falls; Paradise Creek from its confluence with Cub Creek upstream 20.1 km (12.5 mi) to a break in channel gradient near the headwaters; and Brushy Fork Creek from its confluence with Cub Creek upstream 11.3 km (7.0 mi) to a break in channel gradient near the headwaters are known to be used by the Bear Creek local population for foraging, as well as spawning and rearing (CBBTTAT 1998b; USFS 2001b). A small juvenile fish sampled low in the system (IDFG General Parr Monitoring database, unpublished 2002b) suggests spawning activity occurring in upper portions of the watershed.

(L) Running Creek from its confluence with the Selway River upstream 31.4 km (19.5 mi) to an unnamed tributary; Eagle Creek from its confluence with Running Creek upstream 18.9 km (11.7 mi) to a gradient break near the headwaters; Lynx Creek from its confluence with Running Creek upstream 4.1 km (2.6 mi) to an unnamed tributary; and South Fork Running Creek from its mouth upstream 3.3 km (2.0 mi) to an unnamed tributary provide spawning and rearing habitat for the Running Creek local population (CBBTTAT 1998b; USFS 2001b; IDFG General Parr Monitoring database, unpublished 2002b). Tom Creek from its confluence with Running Creek upstream 6.1 km (3.8 mi) to the headwaters provides high quality habitat to provide for the recovered distribution of the Running Creek local population, and is essential to the conservation of bull trout (USFWS 2002).

(M) White Cap Creek from its confluence with the Selway River upstream 39.0 km (24.2 mi) to a gradient break near the headwaters and Canyon Creek from its confluence with White Cap Creek upstream 17.8 km (11.1 mi) to an unnamed tributary provide spawning and rearing habitat for the White Cap Creek local population (CBBTTAT 1998b; M. Jakober, USFS, pers. comm., 2002).

(N) Indian Creek from its confluence with the Selway River upstream 17.3 km (10.8 mi) to an unnamed tributary; Schofield Creek from its confluence

with Indian Creek upstream 8.4 km (5.2 mi) to an unnamed tributary; and Burnt Strip Creek from its confluence with Schofield Creek upstream 4.3 km (2.7 mi) to the headwaters provide spawning and rearing habitat for the Indian Creek local population (CBBTTAT 1998b; M. Jakober, USFS, pers. comm., 2002).

(O) Little Clearwater River from its confluence with the Selway River upstream 19.9 km (12.3 mi) to an unnamed tributary; Flat Creek from its confluence with the Little Clearwater River upstream 8.7 km (5.4 mi) to an unnamed tributary; Salamander Creek from its confluence with the Little Clearwater River upstream 7.7 km (4.8 mi) to an unnamed tributary; and Burnt Knob Creek from its confluence with the Little Clearwater River upstream 4.7 km (2.9 mi) to an unnamed tributary provide spawning and rearing habitat for the Little Clearwater River local population (CBBTTAT 1998b; M. Jakober, USFS, pers. comm., 2002).

(P) Magruder Creek from its confluence with the Selway River upstream 2.6 km (1.7 mi) provides spawning and rearing habitat.

(Q) Deep Creek from its confluence with the Selway River upstream 21.3 km (13.3 mi) to a break in channel gradient; Cayuse Creek from its mouth upstream 10.4 km (6.5 mi) to the headwaters; Vance Creek from its mouth upstream 0.9 km (0.6 mi) to an unnamed tributary; and Slow Gulch Creek from its mouth upstream 2.2 km (1.3 mi) to Lazy Creek. Deep, Vance and Slow Gulch creeks provide spawning and rearing habitat for the Deep Creek local population (USFS 2001b; M. Jakober, USFS, pers. comm., 2002). Cayuse Creek is likely to be occupied based on habitat quality (M. Jakober, USFS, pers. comm., 2002), it provides habitat that is essential for the recovered distribution of the Deep Creek local population.

(R) Upper Selway River from Wilkerson Creek upstream 20.1 km (12.5 mi) to the headwaters; Wilkerson Creek from its confluence with the Selway River upstream 12.8 km (8.0 mi) to a break in channel gradient near the headwaters; Storm Creek from its confluence with Wilkerson Creek upstream 10.1 km (6.3 mi) to a gradient break near the headwaters; French Creek from its confluence with Wilkerson Creek upstream 3.0 km (1.9 mi) to an unnamed tributary; Swet Creek from its confluence with the Selway River upstream 13.7 km (8.5 mi) to the headwaters; Surprise Creek from its confluence with the Selway River upstream 7.6 km (4.7 mi) to the headwaters; and South Fork Surprise Creek from its mouth upstream 6.9 km (4.3 mi) to the headwaters provide

spawning and rearing habitat for the Upper Selway River local population (M. Jakober, USFS, pers. comm., 2002).

(20) Unit 16: Salmon River Basin

The Salmon River basin extends across central Idaho from the Snake River to the Montana border. The critical habitat unit includes 7,688 km (4,777 mi) of stream extending across portions of Adams, Blaine, Custer, Idaho, Lemhi, Nez Perce, and Valley counties in Idaho. There are 10 CHSUs: Little-Lower Salmon River, Middle Salmon River Chamberlain, South Fork Salmon River, Middle Fork Salmon River, Middle Salmon River-Panther Creek, Opal Lake, Lemhi River, Lake Creek, Pahsimeroi River, and Upper Salmon River. Currently, there are 125 known bull trout local populations in this unit. The Draft Recovery Plan (USFWS 2002) indicates the need to maintain all known local populations and identifies the establishment of nine additional populations as necessary for bull trout recovery. The areas proposed as critical habitat within this unit are essential to maintaining the known populations and supporting the additional populations, all of which are essential to the conservation of bull trout.

(i) Little-Lower Salmon CHSU

Approximately 494 km (307 mi) of stream is proposed as critical habitat in drainages associated with the Little Salmon River and the Salmon River downstream of French Creek (rkm 166.0 (rmi 103.1)). Landownership within the CHSU is approximately 77 percent Federal, 21 percent private, and 1 percent State. This CHSU supports seven existing bull trout local populations, and locations for three additional local populations essential for bull trout recovery were identified in the Draft Recovery Plan (USFWS 2002). The stream segments proposed for designation as critical habitat in the Little-Lower Salmon CHSU are described below.

(A) The Salmon River from its confluence with the Snake River upstream 166 km (103.2 mi) to the confluence with French Creek. This stretch of the Salmon River provides foraging and overwinter habitat, and connectivity between the bull trout local populations in this area. This stretch also provides a migratory corridor for movement from upstream portions of the Salmon River to the Snake River.

(B) Slate Creek from its confluence with the Salmon River (at rkm 106.4 (rmi 66.1)) upstream 21.4 km (13.3 mi) to the confluence with Little Slate Creek and extending into Little Slate Creek for

a distance of 14.4 km (9.0 mi), Van Buren Creek from the confluence with Little Slate Creek upstream 8.5 km (5.3 mi), Deadhorse Creek from its mouth upstream 9.2 km (5.7 mi); and Willow Creek from its junction with Little Slate Creek upstream 2.3 km (1.4 mi) to its headwaters.

(C) John Day Creek from its confluence with the Salmon River at rkm 116.5 (rmi 72.3) upstream 13.8 km (8.6 mi) to its headwaters and extending up East Fork John Day Creek for a distance of 6.4 km (4 mi).

(D) The Little Salmon River from its confluence with the Salmon River at rkm 139.5 (rmi 86.6) upstream 33.8 km (21.0 mi) to a barrier.

(E) Rapid River from its confluence with the Little Salmon River at rkm 6.8 (rmi 4.2) upstream 36.5 km (22.7 mi) to its headwaters and extending 16.6 km (10.3 mi) up the West Fork Rapid River, 6.9 km (4.3 mi) up the Lake Fork Rapid River, and 5 km (3.1 mi) up the Granite Fork of the Lake Fork.

(F) Boulder Creek from its confluence with the Little Salmon River at rkm 28.5 (rmi 17.7) upstream 30 km (18.7 mi) to its headwaters and extending up Yellow Jacket Creek for a distance of 2.9 km (1.8 mi).

(G) Hazard Creek from the confluence with the Little Salmon River at rkm 31.4 (rmi 19.5) upstream 17.5 km (15.8 mi) to a headwater lake and extending up Hard Creek for a distance of 7.6 km (4.7 mi) to a barrier falls. A natural bedrock falls on Hazard Creek at rkm 6.1 (rmi 3.8) is a barrier to upstream fish movement. Hard Creek enters downstream of the barrier falls and a fluvial bull trout local population has been documented in Hard and lower Hazard Creeks (CBTAT 1998e).

(H) Lake Creek from its confluence with the Salmon River at rkm 149.7 (rmi 93.0) upstream for 14 km (8.7 mi) to its headwaters.

(I) Partridge Creek from its confluence with the Salmon River at rkm 159.6 (rmi 99.1) upstream for 18.7 km (11.6 mi) to its headwaters.

(J) Elkhorn Creek from its confluence with the Salmon River at rkm 162.7 (rmi 101.0) upstream for 17.7 km (11 mi) to its headwaters.

(K) French Creek from its confluence with the Salmon River at rkm 166.0 (rmi 103.1) upstream for 33.6 km (20.9 mi) to its headwaters and extending up North Creek for 6.1 km (3.8 mi).

(ii) Middle Salmon-Chamberlain CHSU

Approximately 528 km (328 mi) of stream is proposed as critical habitat in drainages associated with the section of the Salmon River from French Creek (rkm 166.0 (rmi 103.1)) upstream to

Chamberlain Creek (rkm 281.9 (rmi 175.1)). Landownership within the CHSU is approximately 98 percent USFS, 1 percent BLM, and 1 percent private. This CHSU supports nine existing bull trout local populations, and the Draft Recovery Plan (USFWS 2002) identifies all of them as essential for conservation of bull trout. It also identifies a drainage where the establishment of an additional population is essential to the conservation of the species. The stream segments that make up the Middle Salmon-Chamberlain CHSU are described below.

(A) The Salmon River from its confluence with French Creek upstream 111.9 km (69.5 mi) to the confluence with Chamberlain Creek. This stretch of the Salmon River provides foraging and overwintering habitat, as well as connectivity between the bull trout local populations in this area. This stretch also provides a migratory corridor for movement from upstream portions of the Salmon River to the Snake River. All other stream segments in this CHSU are tributaries of the Salmon River and primarily provide spawning and rearing habitat.

(B) Fall Creek from its confluence with the Salmon River at rkm 172.5 (rmi 107.1) upstream 14.6 km (9.1 mi) to its headwaters and extending up East Fork Fall Creek for a distance of 7.2 km (4.5 mi).

(C) Wind River from its confluence with the Salmon River at rkm 176.9 (rmi 109.9) upstream 22.5 km (14.0 mi) to the headwaters.

(D) Sheep Creek from its confluence with the Salmon River at rkm 187.6 (rmi 116.5) upstream 23.8 km (14.8 mi) to its headwaters.

(E) California Creek from its confluence with the Salmon River at rkm 189.9 (rmi 117.9) upstream 19.5 km (12.1 mi) to its headwaters.

(F) Crooked Creek from its confluence with the Salmon River at rkm 200.5 (rmi 124.5) upstream 34.3 km (21.3 mi) to the headwaters and extending up Lake Creek for a distance of 21.1 km (13.1 mi).

(G) Warren Creek from its confluence with the Salmon River at rkm 208.6 (rmi 129.5) upstream 31.1 km (19.3 mi) to the headwaters and extending up the following Warren Creek tributaries: Schissler Creek for a distance of 6.8 km (4.2 mi); Guard Creek for a distance of 3.9 km (2.4 mi); Slaughter Creek for a distance of 7.7 km (4.8 mi); Mayflower Creek for a distance of 5.6 km (3.5 mi); and Webfoot Creek for a distance of 3.5 km (2.2 mi).

(H) Rhett Creek from its confluence with the Salmon River at rkm 230.0 (rmi

142.8) upstream 1.2 km (0.8 mi) to a barrier falls.

(I) Little Mallard Creek from its confluence with the Salmon River at rkm 244.6 (rmi 151.9) upstream 0.8 km (0.5 mi) to a falls.

(J) Big Mallard Creek from its confluence with the Salmon River at rkm 247.0 (rmi 153.4) upstream 1.1 km (0.7 mi) to Mallard Creek Falls.

(K) Bargamin Creek from its confluence with the Salmon River at rkm 255.2 (rmi 158.5) upstream 37.5 km (23.3 mi) to its headwaters.

(L) Sabe Creek from its confluence with the Salmon River at rkm 271.6 (rmi 168.7) upstream 24.5 km (15.2 mi) to its headwaters.

(M) Big Harrington Creek from its confluence with the Salmon River at rkm 278.2 (rmi 172.8) upstream 13.5 km (8.4 mi) to its headwaters.

(N) Chamberlain Creek from its confluence with the Salmon River at rkm 281.9 (rmi 175.1) upstream 43.8 km (27.2 mi) to its headwaters and extending up the following tributaries: McCalla Creek for a distance of 25.6 km (15.9 mi) from its mouth to its headwaters; Whimstick Creek from its junction with McCalla Creek upstream 17.4 km (10.8 mi); West Fork Chamberlain Creek from its mouth upstream 14.6 km (9.1 mi) to its headwaters; Game Creek from its mouth on West Fork Chamberlain Creek upstream 8.4 km (5.2 mi); Moose Creek from its mouth upstream 10 km (6.2 mi) to its headwaters; South Fork Chamberlain Creek from its mouth upstream 7.2 km (4.5 mi) to its headwaters; and Rim Creek from its junction with Chamberlain Creek upstream 8.4 km (5.2 mi) to its headwaters.

### (iii) South Fork Salmon River CHSU

Approximately 834 km (518 mi) of stream is proposed as critical habitat in drainages associated with the South Fork of the Salmon River. Landownership within the CHSU is 96 percent Federal land, 1 percent State land, and 3 percent private land. This CHSU supports 28 existing bull trout local populations and one potential local population, all of which are identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). The stream segments proposed for critical habitat that make up the South Fork Salmon River CHSU are described below.

(A) South Fork Salmon River from its confluence with the Salmon River upstream 141.6 km (88 mi) to its headwaters. Most of this stretch provides FMO habitat, and allows for the maintenance of genetic exchange by

local and potential local populations both within and between CHSUs. The upper 13.3 km (8.3 mi) is known to support bull trout spawning and/or early rearing, and is considered to be a distinct local population. All other stream segments in this CHSU are tributaries of the South Fork Salmon River and primarily provide spawning and rearing habitat.

(B) Pony Creek from its confluence with the South Fork Salmon River upstream 14.7 km (9.1 mi) to its headwaters.

(C) Elk Creek from its confluence with the South Fork Salmon River upstream 14.3 km (8.9 mi) to its headwater and extending up West Fork Elk Creek for a distance of 10.7 km (6.6 mi), and up South Fork Elk Creek for a distance of 4.4 km (2.7 mi).

(D) The Secesh River from its confluence with South Fork Salmon River upstream 45.3 km (28.1 mi) to Lake Creek. The lower 39 km (24 mi) stretch of this river is used primarily as FMO habitat (IDFG/FIS database, unpublished 2002c). The uppermost 6 km (4 mi) is known to support bull trout spawning and/or early rearing (IDFG/FIS database, unpublished 2002c; USFWS, *in litt.*, 2002b). A number of bull trout local populations are associated with tributaries of the Secesh River; each of the following streams are known to support bull trout spawning and/or early rearing (USFWS, *in litt.*, 2002b; IDFG/FIS database, unpublished 2002c): Lick Creek from its confluence with the Secesh River upstream 16.3 km (10.2 mi) and extending up Hum Creek for a distance of 3 km (1.9 mi); Loon Creek from its confluence with the Secesh River upstream for a distance of 15.8 km (9.8 mi); Victor Creek from its confluence with the Secesh River upstream 11.2 km (6.9 mi) to its headwaters and extending up Willowbasket Creek for a distance of 6.6 km (4.1 mi); Grouse Creek from its confluence with the Secesh River upstream 7.2 km (4.5 mi) and extending up Flat Creek for a distance of 6.7 km (4.1 mi) and up Sand Creek for 4.1 km (2.6 mi); Ruby Creek from its confluence with the Secesh River upstream 9.4 km (5.8 mi) to its headwaters; Summit Creek from its confluence with the Secesh River upstream 15.6 km (9.7 mi) to its headwaters and extending up Josephine Creek for a distance of 4 km (2.5 mi); Lake Creek from its confluence with the Secesh River upstream 21.7 km (13.5 mi) to its headwaters and extending up Nethker Creek for 6.1 km (3.8 mi), Threemile Creek for 5.8 km (3.6 mi), and Willow Creek for 9 km (5.6 mi).

(E) East Fork South Fork Salmon River from its confluence with South

Fork Salmon River upstream 52.2 km (32.4 mi) to its headwaters. Downstream of Fiddle Creek (rkm 42.7 (rmi 26.5)), the East Fork is occupied FMO habitat; above Fiddle Creek it is occupied spawning and rearing habitat. A number of bull trout local populations extend up tributaries of the upper East Fork South Fork Salmon River; each of the following streams are known to support bull trout spawning and/or early rearing (USFWS, *in litt.*, 2002b; IDFG/FIS database, unpublished 2002c): Quartz Creek for a distance of 12.6 km (7.8 mi) to its headwaters; Profile Creek for a distance of 13.2 km (8.2 mi) to its headwater and extending up Missouri Creek for 4.8 km (3.0 mi); Tamarack Creek for a distance of 11.9 km (7.4 mi) and including 5.8 km (3.6 mi) of Burn Creek; Salt Creek for a distance of 3.8 km (2.4 mi); Sugar Creek for a distance 11.5 km (7.1 mi) and including 5.5 km (3.4 mi) of Cinnabar Creek and 4.2 km (2.6 mi) of Cane Creek; and Meadow Creek for a distance of 7.7 km (4.8 mi).

(F) Johnson Creek from its confluence with East Fork South Fork Salmon River upstream 61.8 km (38.4 mi) to its headwater. Downstream of Sand Creek (rkm 46.4 (rmi 28.8)), Johnson Creek is occupied FMO habitat; the 15.4 km (9.6 mi) above Sand Creek is potential spawning and rearing habitat containing many of the primary constituent elements. Upper Johnson Creek is identified in the Draft Recovery Plan (USFWS 2002) as a potential local population with a number of known bull trout local populations extending up tributaries of Johnson Creek. Each of the following streams and lakes are known to support bull trout: Riordan Creek for a distance of 13.9 km (8.6 mi) above and below Riordan Lake, and including the 30 ha (75 ac) lake; Trapper Creek for a distance of 14.5 km (9.0 mi) and including 4.0 km (2.5 mi) of an unnamed tributary on the south side of Trapper Creek; and Burntlog Creek for a distance of 22.7 km (14.1 mi) and including 7.3 km (4.5 mi) of Buck Creek, 10.5 km (6.5 mi) of East Fork Burntlog Creek, and an unnamed tributary to East Fork Burntlog Creek from its mouth, approximately 4.4 km (2.8 mi) upstream of the confluence of Burntlog and East Fork Burntlog creeks, upstream 3.2 km (2 mi) to its headwaters.

(G) The following tributaries of the South Fork Salmon River that enter the river upstream of the East Fork South Fork Salmon River are known to support bull trout local populations and are proposed as critical habitat: Fism Creek from its confluence with South Fork Salmon River upstream for a distance of 3.7 km (2.3 mi) and including 13.0 km (8.1 mi) of North

Fork Fitsum Creek; Buckhorn Creek from its confluence with South Fork Salmon River upstream for a distance of 16.6 km (10.3 mi) and extending 7.7 km (4.8 mi) up Little Buckhorn Creek and 6.1 km (3.8 mi) up South Fork Buckhorn Creek; Cougar Creek from its confluence with South Fork Salmon River upstream for a distance of 13.8 km (8.6 mi); Fourmile Creek from its confluence with South Fork Salmon River upstream for a distance of 12.1 km (7.5 mi); Blackmare Creek from its confluence with South Fork Salmon River upstream for a distance of 9.1 km (5.6 mi) and extending 7.4 km (4.6 mi) up South Fork Blackmare Creek; Six Bit Creek from its confluence with South Fork Salmon River upstream for a distance of 10 km (6.2 mi); Warm Lake Creek from its confluence with South Fork Salmon River upstream for a distance of 4.5 km (2.8 mi) up to and including Warm Lake (167 ha (412 ac), and extending 6.5 km (4.1 mi) up Cabin Creek and 5.1 km (3.2 mi) up Reeves Creek; Curtis Creek from its confluence with South Fork Salmon River upstream for a distance of 12.2 km (7.6 mi), including two unnamed tributaries to Curtis Creek upstream approximately 1.7 km (1 mi) in each, and extending 7.2 km (4.5 mi) up Trail Creek, including 1.6 km (1 mi) of an unnamed tributary to Trail Creek; Bear Creek from its confluence with South Fork Salmon River upstream for a distance of 8.5 km (5.3 mi); Tyndall Creek from its confluence with South Fork Salmon River upstream for a distance of 5.8 km (3.6 mi); Rice Creek from its confluence with South Fork Salmon River upstream for a distance of 10.2 km (6.3 mi) and extending 1.4 km (0.9 mi) up an unnamed tributary; an unnamed tributary to South Fork Salmon River (just below Yellowjacket Creek) from its confluence with the South Fork upstream 2.0 km (1.3 mi); and Mormon Creek from its confluence with South Fork Salmon River upstream for a distance of 4.8 km (3.0 mi).

(iv) Middle Fork Salmon River CHSU

Approximately 1,905 km (1,184 mi) of stream is proposed as critical habitat in drainages associated with the Middle Fork of the Salmon River. Landownership within the CHSU is approximately 98 percent USFS, 2 percent private, and less than 1 percent State. This CHSU supports 28 existing bull trout local populations, all of which are identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). The stream segments that comprise proposed critical habitat in this CHSU are described below.

(A) Middle Fork Salmon River from its confluence with the Salmon River

upstream for a distance of 168.4 km (104.6 mi) to Bear Valley Creek. The Middle Fork provides FMO habitat, and allows for the maintenance of genetic exchange by local and potential local populations both within and between CHSU. All other stream segments in this CHSU are tributaries of the Middle Fork Salmon River and primarily provide spawning and rearing habitat (Southwest Basin Native Fish Technical Advisory Group (SBNFTG) 1998; USFWS, in *litt.*, 2002b).

(B) Big Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 74.2 km (46.1 mi) to its headwater and extending up the following tributaries: Rush Creek for a distance of 27.4 km (17 mi) and including 7.8 km (4.9 mi) of South Fork Rush Creek; Cabin Creek for a distance of 14.4 km (8.9 mi); Cave Creek for a distance of 19.4 km (12 mi); Monumental Creek for a distance of 41.1 km (25.6 mi) and including 12.8 km (7.9 mi) of Snowslide Creek, and 12.7 km (7.9 mi) of West Fork Monumental Creek; Crooked Creek for a distance of 11.1 km (6.9 mi); Big Ramey Creek for a distance of 18.8 km (11.7 mi) and including 5.8 km (3.6 mi) of East Fork Big Ramey Creek; Beaver Creek for a distance of 18.8 km (11.7 mi) and including 11.2 km (7.0 mi) of Hand Creek and 5.8 km (3.6 mi) of Boulder Creek; Smith Creek for a distance of 10 km (6.2 mi) and including 3.8 km (2.4 mi) of Middle Fork Smith Creek and 4.9 km of South Fork Smith Creek; Logan Creek for a distance of 13.4 km (8.3 mi); and Belvidere Creek for a distance of 4.7 km (2.9 mi).

(C) Wilson Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 24.2 km (15.1 mi).

(D) Soldier Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 14.4 km (8.9 mi).

(E) Brush Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 10.7 km (6.6 mi).

(F) Sheep Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 16.3 km (10.1 mi).

(G) Camas Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 51 km (31.7 mi) and extending up the following tributaries: Yellow Jacket Creek for a distance of 36.5 km (22.7 mi) and including 6.5 km (4.0 mi) of Lake Creek, 13.6 km (8.4 mi) of Hoodoo Creek, 8.4 km (5.2 mi) of Little Jacket Creek, and 5.2 km (3.2 mi) of Shovel Creek; Woodtick Creek for a distance of 9.6 km

(6 mi); West Fork Camas Creek for a distance of 14.7 km (3.1 mi) and including 7.8 km (4.8 mi) of Pole Creek; Silver Creek for a distance of 29.1 km (18.1 mi) and including 7.8 km (4.8 mi) of Arrastra Creek, 6.9 km (4.3 mi) of Birdseye Creek, and 3.5 km (2.2 mi) of Blue Fork Silver Creek; Castle Creek for a distance of 15.0 km (9.3 mi); Furnace Creek for a distance of 12.9 km (8.0 mi); White Goat Creek for a distance of 7.1 km (4.4 mi); South Fork Camas Creek for a distance of 13.2 km (8.2 mi); Fly Creek for a distance of 6.2 km (3.9 mi); and J Fell Creek for a distance of 8.5 km (5.3 mi).

(H) Norton Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 12.8 km (8.0 mi).

(I) Loon Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 54.5 km (33.9 mi) and extending up into the following tributaries: Cache Creek for a distance of 11.5 km (7.1 mi); Bear Creek for a distance of 4.3 km (2.7 mi); Cold Spring Creek for a distance of 5.8 km (3.6 mi); Jack Creek for a distance of 3.1 km (1.9 mi); Indian Creek for a distance of 8.7 km (5.4 mi); Cabin Creek for a distance of 10.6 km (6.6 mi); Rock Creek for a distance of 13.0 km (8.1 mi); Warm Spring Creek for a distance of 30.1 km (18.7 mi) and extending 2.1 km (1.3 mi) up Fir Creek, 2.8 km (1.7 mi) up Cat Creek, 4.5 km (2.8 mi) up MaHoney Creek, 3.2 km (2 mi) up Parker Creek, 5.5 km (3.4 mi) up Wickiup Creek, 7.0 km (4.3 mi) up Trapper Creek, 3.8 km (2.4 mi) up McKee Creek, 3.7 km (2.3 mi) up Rush Creek, and 1.4 km (0.9 mi) up South Fork Warm Spring Creek; Cottonwood Creek for a distance of 8.9 km (5.5 mi) and extending 4.3 km (2.7 mi) up South Fork Cottonwood Creek; Shell Creek for a distance of 3.6 km (2.2 mi); Rat Creek for a distance of 2.5 km (1.6 mi); Canyon Creek for a distance of 3.3 km (2.0 mi); Mayfield Creek for a distance of 5.1 km (3.3 mi) and extending 4.9 km (3.0 mi) up Nelson Creek, 11.2 km (7.0 mi) up West Fork Mayfield Creek, and 20.2 km (12.5 mi) up East Fork Mayfield Creek; Deer Creek for a distance of 3.3 km (2.0 mi); Trail Creek for a distance of 10.1 km (6.3 mi); and Pioneer Creek for a distance of 11 km (6.8 mi).

(J) Little Loon Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 18.5 km (11.5 mi) and extending up West Fork Little Loon Creek for 6.2 km.

(K) Little Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 3.9 km (2.4 mi).

(L) Thomas Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 1.8 km (1.1 mi), and extending 3.8 km (2.4 mi) up West Fork Thomas Creek and 4.8 km (3 mi) up East Fork Thomas Creek.

(M) Marble Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 35.9 km (22.3 mi) and extending up into the following tributaries: Trail Creek for a distance of 15.5 km (9.6 mi); Dynamite Creek for a distance of 13.2 km (8.2 mi); Buck Creek for a distance of 6.9 km (4.3 mi); Little Cottonwood Creek for a distance of 6.5 km (4.0 mi); and Big Cottonwood Creek for a distance of 12.2 km (7.6 mi).

(N) Indian Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 32.7 km (20.3 mi) and extending up into the following tributaries: Middle Fork Indian Creek for a distance of 8.7 km (5.4 mi); Cultus Creek for a distance of 4.9 km (3.0 mi); Papoose Creek for a distance of 5.9 km (3.7 mi); Little Indian Creek for a distance of 7.7 km (4.8 mi); and Big Chief Creek for a distance of 8.2 km (5.5 mi).

(O) Pistol Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 29.4 km (18.3 mi) and extending up into the following tributaries: Little Pistol Creek for a distance of 22.1 km (13.7 mi) and including 6.0 km (3.7 mi) of Springfield Creek, 5.5 km (3.4 mi) of West Fork Springfield Creek, and 5.5 km (3.4 mi) of Browning Creek; Forty-Five Creek for a distance of 9.6 km (6.0 mi); Lugar Creek for a distance of 8.8 km (5.5 mi); and Thirty-Eight Creek for a distance of 5.4 km (3.4 mi).

(P) Rapid River from its confluence with the Middle Fork Salmon River upstream for a distance of 27.7 km (17.2 mi) and extending up into the following tributaries: Sheep Creek for a distance of 16.3 km (10.1 mi) and extending 5.1 km (3.2 mi) up North Fork Sheep Creek and 7.2 km (4.5 mi) up South Fork Sheep Creek; Sulfur Creek for a distance of 7.9 km (4.9 mi); Float Creek for a distance of 11.4 km (7.1 mi); Vanity Creek for a distance of 9.6 km (6 mi) and extending 5.4 km (3.4 mi) up Seafoam Creek, and 5.9 km (3.7 mi) up Baldwin Creek; and Duffield Creek for a distance of 10.9 km (6.8 mi).

(Q) Greyhound Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 8.3 km (5.2 mi).

(R) Soldier Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 12.6 km (7.8 mi).

(S) Elkhorn Creek from its confluence with the Middle Fork Salmon River

upstream for a distance of 11.9 km (7.4 mi) and extending 7.9 km (4.9 mi) up North Fork Elkhorn Creek, and 6.8 km (4.2 mi) up Middle Fork Elkhorn Creek.

(T) Sulphur Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 29.4 km (18.3 mi) and extending 6.3 km (3.9 mi) up North Fork Sulphur Creek.

(U) Dagger Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 12.4 km (7.7 mi).

(V) Marsh Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 22 km (13.7 mi) and extending up into the following tributaries: Lola Creek for a distance of 6.3 km (3.9 mi); Beaver Creek for a distance of 27.3 km (17.0 mi) and extending 6.5 km (4.0 mi) up Bear Creek and 11.4 km (7.1 mi) up Winnemucca Creek; Cape Horn Creek for a distance of 15.1 km (9.4 mi) and extending 11.5 km (7.1 mi) up Banner Creek; and Knapp Creek for a distance of 24.8 km (15.4 mi).

(W) Bear Valley Creek from its confluence with the Middle Fork Salmon River upstream for a distance of 49.7 km (30.9 mi) and extending up into the following tributaries: Fir Creek for a distance of 11 km (6.8 mi); Cold Creek for a distance of 6.8 km (4.2 mi); Wyoming Creek for a distance of 10 km (6.2 mi); Poker Creek for a distance of 4 km (2.5 mi); an unnamed Tributary entering Bear Valley Creek from the north approximately 0.5 km (0.3 mi) upstream of Poker Creek, for a distance of 2.6 km (1.6 mi); Elk Creek for a distance of 25.5 km (15.8 mi) and extending 9.8 km (6.1 mi) up Cook Creek, 13.6 km (8.6 mi) up Bearskin Creek, 6.3 km (3.9 mi) up Little Beaver Creek, 9.9 km (6.1 mi) up Porter Creek, 5.1 km (3.2 mi) up Little East Fork Elk Creek, 6.4 km (4 mi) up West Fork Elk Creek, 5.2 km (3.2 mi) up North Fork Elk Creek, and 10.2 km (6.3 mi) up East Fork Elk Creek; Pole Creek for a distance of 3.1 km (1.9 mi); Sack Creek for a distance of 8.9 km (5.5 mi); Cache Creek for a distance of 12.3 km (7.6 mi) and extending 3.2 km (2 mi) up an unnamed tributary that enters Cache Creek from the east approximately 4.5 km (2.8 mi) upstream of Bear Valley Creek; Sheeptrail Creek for a distance of 3.6 km (2.2 mi); Cub Creek for a distance of 4.2 km (2.6 mi); and Casner Creek for a distance of 4.4 km (2.7 mi).

#### (v) Middle Salmon-Panther CHSU

Approximately 1,097 km (682 mi) of stream is proposed as critical habitat in drainages associated with the middle section of the Salmon River, from its confluence with the Middle Fork

Salmon River upstream to its confluence with the Pahsimeroi River.

Landownership within the CHSU is approximately 79 percent Federal and 11 percent private. This CHSU supports 20 existing bull trout local populations, all of which are identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). The stream segments proposed for critical habitat designation in this CHSU are described below.

(A) The Salmon River from its confluence with Chamberlain Creek upstream 208 km (129 mi) to its confluence with the Pahsimeroi River. This stretch of the Salmon River provides FMO habitat and connectivity between the bull trout local populations in this area. This stretch also provides a migratory corridor for movement from upstream portions of the Salmon River to the Snake River. All other stream segments in this CHSU are tributaries of the Salmon River and primarily provide spawning and rearing habitat.

(B) Horse Creek from its confluence with the Salmon River upstream 40.9 km (25.4 mi) to its headwaters and extending 4.7 km (2.9 mi) up Cayuse Creek, and 3.9 km (2.4 mi) up Woods Fork Horse Creek.

(C) Owl Creek from its confluence with the Salmon River upstream 23.1 km (14.3 mi).

(D) Panther Creek from its confluence with the Salmon River upstream 73.1 km (45.4 mi) and extending up into the following tributaries: Clear Creek for a distance of 27.7 km (17.2 mi); Beaver Creek for a distance of 15.5 km (9.6 mi); Trail Creek for a distance of 8.8 km (5.5 mi); Napias Creek for a distance of 23.5 km (14.6 mi) and extending 10.9 km (6.8 mi) up Moccasin Creek, 11.5 km (7.1 mi) up Phelan Creek, 12.6 km (7.8 mi) up Arnett Creek, and 8.3 km (5.2 mi) up Rapps Creek; Deep Creek for a distance of 19.5 km (12.1 mi) and extending 13.6 km (8.4 mi) up Little Deep Creek, and 3.2 km (2 mi) up an unnamed tributary that enters Deep Creek from the northeast approximately 11 km (6.8 mi) upstream from Panther Creek; West Fork Blackbird Creek from upstream of the tailings pond 9.1 km (5.7 mi) to its headwaters; Woodtick Creek for a distance of 14.1 km (8.8 mi); Musgrove Creek for a distance of 17.6 km (10.9 mi); Porphyry Creek for a distance of 11.5 km (7.1 mi) and extending 3.8 km (2.4 mi) up South Fork Porphyry Creek; Fourth of July Creek for a distance of 6.0 km (3.7 mi); Opal Creek for a distance of 3.3 km (2.0 mi); Weasel Creek for a distance of 2.8 km (1.7 mi); and Otter Creek for a distance of 5.7 km (3.5 mi).



(E) Pine Creek from its confluence with the Salmon River upstream 17.6 km (10.9 mi).

(F) Boulder Creek from its confluence with the Salmon River upstream 14.5 km (9.0 mi).

(G) Spring Creek from its confluence with the Salmon River upstream 10.6 km (6.6 mi).

(H) Squaw Creek from its confluence with the Salmon River upstream 14.9 km (9.3 mi).

(I) Indian Creek from its confluence with the Salmon River upstream 18.6 km (11.4 mi) and extending 5.6 km (3.5 mi) up West Fork Indian Creek, 7.6 km (4.7 mi) up Corral Creek, and 9.2 km (5.7 mi) up McConn Creek.

(J) North Fork Salmon River from its confluence with the Salmon River upstream 39.4 km (24.5 mi) and extending up into the following tributaries: Hughes Creek for a distance of 18.2 km (11.3 mi); Sheep Creek for a distance of 10.9 km (6.8 mi) and extending 5.2 km (3.2 mi) up South Fork Sheep Creek and 9.2 km (5.7 mi) up North Fork Sheep Creek; Dahlonga Creek for a distance of 12.7 km (7.9 mi); Twin Creek for a distance of 11.9 km (7.4 mi); Vine Creek for a distance of 4.4 km (2.7 mi); Pierce Creek for a distance of 6.7 km (4.2 mi); West Fork, North Fork Salmon River Creek for a distance of 3.1 km (1.9 mi); and Moose Creek for a distance of 5.0 km (3.1 mi).

(K) Fourth of July Creek from its confluence with the Salmon River upstream 17.8 km (11.1 mi).

(L) Carmen Creek from its confluence with the Salmon River upstream 24.2 km (15.0 mi) and extending 1.5 km (0.9 mi) up Freeman Creek.

(M) Williams Creek from its confluence with the Salmon River upstream 9.9 km (6.1 mi) and extending 8.2 km (5.1 mi) up South Fork Williams Creek.

(N) Twelvemile Creek from its confluence with the Salmon River upstream 14.1 km (8.8 mi).

(O) Iron Creek from its confluence with the Salmon River upstream 20.6 km (12.8 mi) and extending 11.7 km (7.3 mi) up North Fork Iron Creek, 8.8 km (up South Fork Iron Creek, and 7.7 km (4.8 mi) up West Fork Iron Creek.

(P) McKim Creek from its confluence with the Salmon River upstream 10.1 km (6.3 mi) and extending 9.8 km (6.1 mi) up North Fork McKim Creek.

(Q) Hat Creek from its confluence with the Salmon River upstream 17.6 km (10.9 mi) and extending 6.6 km (4.1 mi) up Big Hat Creek, 6.6 km (4.4 mi) up Middle Fork Hat Creek, and 7.2 km (4.5 mi) up North Fork Hat Creek.

(R) Allison Creek from its confluence with the Salmon River upstream 10.9 km (6.8 mi).

(S) Cow Creek from its confluence with the Salmon River upstream 15 km (9.3 mi).

(vi) Lemhi River CHSU

Approximately 1,232 km (766 mi) of stream is proposed as critical habitat in drainages associated with the Lemhi River. Landownership within the CHSU is approximately 65 percent Federal, 32 percent private, and 3 percent State. This CHSU supports six existing bull trout local populations and three potential local populations, all of which are identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). The stream segments proposed for critical habitat designation in this CHSU are described below.

(A) The Lemhi River from its confluence with the Salmon River upstream 93.6 km (58.2 mi) to its headwaters (the confluence of Texas Creek and Eighteen Mile Creek). This segment provides FMO habitat, and provides connectivity between the local populations in the Lemhi watershed. All other stream segments in this CHSU are tributaries of the Lemhi River and primarily provide spawning and rearing habitat.

(B) Geerston Creek from the point where an irrigation ditch turns west towards Kirtley Creek, upstream 7.7 km (4.8 mi) in the irrigation ditch to the point of diversion then upstream in Geerston Creek a total of 15.7 km (9.6 mi) to the outlet of a headwater lake for a total of 23.4 km (14.5 mi).

(C) Bohannon Creek from its confluence with the Lemhi River upstream 16.4 km (10.2 mi).

(D) Kenney Creek from its confluence with the Lemhi River upstream 15.7 km (9.7 mi) and extending 7.0 km (4.3 mi) up East Fork Kenney Creek.

(E) Pattee Creek from its confluence with the Lemhi River upstream 21.0 km (13.0 mi).

(F) Hayden Creek from its confluence with the Lemhi River upstream 31.8 km (19.7 mi) and extends up into the following tributaries: Bear Valley Creek for a distance of 14.4 km (8.9 mi) and extending 8.0 km (5.0 mi) up Kadletz Creek, 8.5 km (5.3 mi) up Wright creek, 2.9 km (1.8 mi) up Short Creek, and 12.6 km (7.8 mi) up Deer Creek; East Fork Hayden Creek for a distance of 13.8 km (8.6 mi); Cooper Creek for a distance of 6.7 km (4.2 mi); West Fork Hayden Creek from its mouth upstream 1 km (0.6 mi) and Bray Creek for a distance of 5.2 km (3.3 mi).

(G) Mill Creek from the point where it is diverted for irrigation upstream

17.9 km (11.1 mi) to where it flows from a lake.

(H) Big Springs Creek from its confluence with the Lemhi River upstream to its source and including historic portions of the stream channel now used to divert irrigation water for a total of 18.8 km (11.7 mi).

(I) Little Eight Mile Creek from its confluence with the Lemhi River upstream 13.1 km (8.1 mi).

(J) Big Eight Mile Creek from its confluence with the Lemhi River upstream 24.1 km (15.0 mi) and extending 4.1 km (2.5 mi) up Dairy Creek.

(K) Big Timber Creek from its confluence with the Lemhi River upstream 34.1 km (21.2 mi) and extending 6.7 km (4.2 mi) up Little Timber Creek and 10.2 km (6.3 mi) of Middle Fork Little Timber Creek.

(L) Canyon Creek from its confluence with the Lemhi River upstream 24.2 km (15.0 mi) and extending up the following tributaries: Cruikshank Creek for a distance of 11.3 km (7.0 mi); and unnamed segments from four springs (Hood Gulch) from where it is diverted for irrigation then upstream about 2 km (1.2 mi) in a single waterway. Then Hood Gulch is spread out in a series of four springs/channels that each flow for a few kilometers up to their spring source. The entire network of springs and channels to the point of diversion totals 19.8 km (12.3 mi).

(M) Eighteen Mile Creek from its confluence with the Lemhi River upstream 43.2 km (26.8 mi) and extending up the following tributaries: Deer Creek, a tributary to Texas Creek, for a distance of 9.3 km (5.8 mi); Hawley Creek for a distance of 14.9 km (9.3 mi) to the point where Reservoir Creek and Big Bear Creek meet, and extending up Reservoir Creek for 9.1 km (5.6 mi), up Big Bear Creek for 11.1 km (6.9 mi), and up Meadow Creek for 2.8 km (1.7 mi).

(vii) Opal Lake CHSU

Proposed critical habitat in the Opal Lake CHSU consists of 6 ha (14 ac) Opal Lake and 4 km (2.5 mi) of upper Opal Creek that feeds into the lake. The CHSU is entirely on USFS land and supports one existing bull trout local population that is identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). Opal Lake has no known outlet, so this bull trout population is isolated from other populations. Good spawning habitat is located upstream of the lake in upper Opal Creek, however, positive identification of redds has been unavailable to date (B. Roberts, USFS, *in litt.*, 2000a).



## (viii) Lake Creek CHSU

Proposed critical habitat in the Lake Creek CHSU consists of 10.6 km (6.6 mi) of Lake Creek, 4.3 km (2.7 mi) of North Fork Lake Creek, and Williams Lake (72 ha (177 ac)). This unit supports one existing bull trout local population that is identified as essential for recovery in the Draft Recovery Plan (USFWS 2002). Williams Lake has no known surface outlet, so this bull trout population is isolated from other populations. Good spawning habitat is located upstream of the lake in Lake Creek, and its north fork and bull trout have been observed in these streams (T. Curet, IDFG, pers. comm., 2002). Landownership in this CHSU is approximately 86 percent Federal and 13 percent private.

## (ix) Pahsimeroi River CHSU

Approximately 362 km (225 mi) of stream is proposed as critical habitat in drainages associated with the Pahsimeroi River. Landownership within the CHSU is 66 percent Federal, 31 percent private, and 3 percent State. This CHSU supports eight existing bull trout local populations, all of which are identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). The stream segments proposed for critical habitat designation in this CHSU are described below.

(A) The Pahsimeroi River from its confluence with the Salmon River upstream 85 km (53.3 mi) to its headwaters. This segment provides FMO habitat, and provides connectivity between the local populations in the Pahsimeroi watershed. All other stream segments in this CHSU are tributaries of the Pahsimeroi River and are primarily spawning and rearing habitat.

(B) Morgan Creek from its confluence with the Pahsimeroi River upstream 8.7 km (5.4 mi) and extending 9.7 km (6.0 mi) up the North Fork Morgan Creek and 6.8 km (4.2 mi) up the East Fork Morgan Creek.

(C) Tater Creek from its confluence with the Pahsimeroi River upstream 13.8 km (8.6 mi) and including the irrigation ditches currently used to divert water at rkm 8.6 (rmi 5.3).

(D) Morse Creek from its confluence with the Pahsimeroi River upstream 20 km (12.4 mi).

(E) Falls Creek from its confluence with the Pahsimeroi River upstream 24.1 km (15.0 mi).

(F) Patterson Creek from its confluence with the Pahsimeroi River upstream 43.2 km (26.8 mi) and extending 5.2 km (3.2 mi) up Inyo Creek.

(G) Big Creek from its confluence with the Pahsimeroi River upstream 19.9 km

(12.4 mi) to the confluence of North Fork Big Creek and South Fork Big Creek, and extending 14.2 km (8.8 mi) up the South Fork and 13.4 km (8.3 mi) up the North Fork.

(H) Goldberg Creek from its confluence with the Pahsimeroi River upstream 27.3 km (17.0 mi) to the confluence of Big Gulch and Ditch Creeks and extending 11.2 km (7.0 mi) up Big Gulch and 10.7 km (6.6 mi) up Ditch Creek.

(I) Burnt Creek from its confluence with the Pahsimeroi River upstream 17.2 km (10.7 mi) to the East Fork Burnt Creek confluence and extending 4.0 km (2.5 mi) up East Fork Burnt Creek.

(J) Mahogany Creek from its confluence with the Pahsimeroi River upstream 14.7 km (9.1 mi).

(K) West Fork Pahsimeroi River from its confluence with the Pahsimeroi River upstream 9.1 km (5.7 mi).

(L) East Fork Pahsimeroi River from its confluence with the Pahsimeroi River upstream 10.8 km (6.7 mi).

## (x) Upper Salmon River CHSU

Approximately 1,220 km (758 mi) of stream is proposed as critical habitat in drainages associated with the Upper Salmon River. Landownership within the CHSU is approximately 79 percent Federal and 14 percent private. This CHSU supports 18 existing bull trout local populations, all of which are identified as essential for bull trout recovery in the Draft Recovery Plan (USFWS 2002). The stream segments proposed for critical habitat designation in this CHSU are described below.

(A) The Salmon River from its confluence with the Pahsimeroi River upstream 195 km (121 mi) to its headwaters. This stretch of the Salmon River primarily provides foraging and overwinter habitat, and connectivity between the bull trout local populations in this area, as well as a migratory corridor for movement to downstream portions of the Salmon River. The uppermost 31 km (19 mi) above the confluence with Alturas Lake Creek also supports spawning and rearing. All other stream segments in this CHSU are tributaries of the Salmon River and primarily provide spawning and rearing habitat.

(B) Morgan Creek from its confluence with the Salmon River upstream 31.7 km (19.7 mi) to its headwaters and extending up the following tributaries: West Fork Morgan Creek for a distance of 14.2 km (8.8 mi); Lick Creek for a distance of 9.4 km (5.8 mi); Van Horn Creek for a distance of 9.6 km (6.0 mi); Corral Creek for a distance of 12.7 km (7.9 mi) and extending 5.5 km (3.4 mi) up an unnamed tributary that enters

Corral Creek from the east; and Alder Creek for a distance of 4.4 km (2.7 mi).

(C) Challis Creek from its confluence with the Salmon River upstream 22.6 km (14.0 mi) to its headwaters and extending up the following tributaries: Mill Creek for a distance of 23.9 km (14.8 mi); Bear Creek for a distance of 8.9 km (5.5 mi); and Lodgepole Creek for a distance of 6.4 km (4.0 mi).

(D) Garden Creek from its confluence with the Salmon River upstream 22.6 km (14.0 mi) to its headwaters.

(E) East Fork Salmon River from its confluence with the Salmon River upstream 58.2 km (36.1 mi) to its headwaters and extending up the following tributaries: Herd Creek for a distance of 14.3 km (8.9 mi) and extending 4.2 km (2.6 mi) up East Pass Creek, 10 km (6.2 mi) up East Fork Herd Creek, 9.4 km (5.8 mi) up West Fork Herd Creek and 2.8 km (1.7 mi) up Meridian Creek; Big Boulder Creek for a distance of 18.9 km (11.7 mi); Little Boulder Creek for a distance of 10.1 km (6.3 mi); Wickiup Creek for a distance of 10.8 km (6.7 mi); Germania Creek for a distance of 23.4 km (14.5 mi) and extending up Chamberlain Creek for 8.3 km (5.2 mi); Bowery Creek for a distance of 8.0 km (5 mi) and extending 6.5 km (4.0 mi) up Long Tom Creek and 3.9 km (2.4 mi) up North Fork Bowery Creek; West Pass Creek for a distance of 13.5 km (8.4 mi) and extending 4.8 km (3.0 mi) up Roaring Creek; Ibex Creek for a distance of 6.1 km (3.8 mi); West Fork East Fork Salmon River for a distance of 8.6 km (5.3 mi); and South Fork East Fork Salmon River for a distance of 10.1 km (6.3 mi).

(F) Kinnikinic Creek from its confluence with the Salmon River upstream 13.8 km (8.6 mi) to its headwaters.

(G) Squaw Creek from its confluence with the Salmon River upstream 25.7 km (16.0 mi) to its headwaters and extending 8.3 km (5.2 mi) up Martin Creek and 5.2 km (3.2 mi) up Willow Creek.

(H) Thompson Creek from its confluence with the Salmon River upstream 19.6 km (12.2 mi) to its headwaters.

(I) Slate Creek from its confluence with the Salmon River upstream 13.3 km (8.3 mi) to its headwaters and extending 8.4 km (5.2 mi) up Silver Rule Creek and 5.9 km (3.7 mi) up Livingston Creek.

(J) Warm Springs Creek from its confluence with the Salmon River upstream 34.4 km (21.4 mi) to its headwaters and extending 9.1 km (5.7 mi) up Martin Creek, and 1.2 km (0.7 mi) up Pigtail Creek.

(K) Yankee Fork Salmon River from its confluence with the Salmon River upstream 46.7 km (29.0 mi) to its headwaters and extending up the following tributaries: West Fork Yankee Fork for a distance of 21.1 km (13.1 mi) and extending 6.5 km (4.0 mi) up Deadwood Creek, 12.7 km (7.9 mi) up Lightning Creek, and 8.3 km (5.2 mi) up Cabin Creek; Jordan Creek for a distance of 12.6 km (7.8 mi); Fivemile Creek for a distance of 7.6 km (4.7 mi); Sixmile Creek for a distance of 7 km (4.3 mi); Eightmile Creek for a distance of 10.8 km (6.7 mi); Ninemile Creek for a distance of 4.5 km (2.8 mi); Tenmile Creek for a distance of 6.7 km (4.2 mi); Elevenmile Creek for a distance of 4.6 km (2.9 mi); Twelvemile Creek for a distance of 5.8 km (3.6 mi); and McKay Creek for a distance of 7.5 km (4.7 mi) and extending 4.4 km (2.7 mi) up an unnamed tributary that enters McKay Creek from the south.

(L) Basin Creek from its confluence with the Salmon River upstream 23.4 km (14.5 mi) to its headwaters and extending up the following tributaries: East Basin Creek for a distance of 10.1 km (6.3 mi) and extending 3.3 km (2.0 mi) up an unnamed tributary that enters East Basin from the northwest; Short Creek for a distance of 3 km (1.9 mi); and Sunday Creek for a distance of 5.7 km (3.5 mi).

(M) Valley Creek from its confluence with the Salmon River upstream 39.6 km (24.6 mi) to a headwater lake and extending up the following tributaries: Goat Creek for a distance of 8.3 km (5.2 mi); Iron Creek for a distance of 10.1 km (6.3 mi); Crooked Creek for a distance of 6.1 km (3.8 mi); Job Creek for a distance of 0.1 km (0.06 mi); Elk Creek for a distance of 20.2 km (12.5 mi); Meadow Creek for a distance of 4 km and extending 8.8 km (5.5 mi) up Trap Creek; East Fork Valley Creek for a distance of 7.5 km (4.7 mi); and Prospect Creek for a distance of 4.7 km (2.9 mi).

(N) Redfish Lake Creek from its confluence with the Salmon River upstream 4.2 km (2.6 mi) to Little Redfish Lake and including: Little Redfish Lake (26 ha (64 ac)); Redfish Lake (612 ha (1,512 ac)); Redfish Lake Creek for 0.2 km (0.1 mi) upstream of Redfish Lake; and Fishhook Creek for a distance of 6.6 km (4.1 mi).

(O) Fourth of July Creek from its confluence with the Salmon River upstream 19.9 km (12.4 mi) to its headwaters.

(P) Alturas Lake Creek from its confluence with the Salmon River upstream 12.5 km (7.8 mi) to Alturas Lake and including the following tributaries and lakes: Yellowbelly Creek

for 3.5 km (2.2) from Alturas Lake Creek upstream to Yellowbelly Lake and for 5.4 km (3.4 mi) from Yellowbelly Lake upstream to Farley Lake outlet; Yellowbelly Lake (79 ha (195 ac)); Pettit Lake Creek for 1.9 km (1.2 mi) between Alturas Lake Creek and Pettit Lake and for 3.1 km (1.9 mi) upstream of Pettit Lake; Pettit Lake (152 ha (376 ac)); Cabin Creek for 4.0 km (2.5 mi) from Alturas Lake Creek to its headwaters; Alturas Lake (334 ha (825 ac)); Alturas Lake Creek from Alturas Lake upstream 13.4 km (8.3 mi) to its headwater; Alpine Creek for 8.6 km (5.3 mi) from Alturas Lake Creek to its headwaters; Pole Creek from its confluence with the Salmon River upstream 16.9 km (10.5 mi) to its headwaters.

(Q) Beaver Creek from its confluence with the Salmon River upstream 14.4 km (8.9 mi) to its headwaters.

(R) Smiley Creek from its confluence with the Salmon River upstream 16.9 km (10.5 mi) to its headwaters.

(S) Frenchman Creek from its confluence with the Salmon River upstream 11.5 km (7.1 mi) to its headwaters.

#### (21) Unit 17: Southwest Idaho River Basins

The Southwest Idaho Unit includes a total of approximately 2,792 km (1,735 mi) of stream in the Boise, Payette, and Weiser River basins (Ada, Adams, Boise, Camas, Canyon, Elmore, Gem, Payette, Valley, and Washington counties) proposed for designation as critical habitat. The Boise River basin contains the Arrowrock, Anderson Ranch, and Lucky Peak critical habitat CHSUs. The Payette River Basin contains the upper South Fork Payette River, Deadwood River, Middle Fork Payette River, North Fork Payette River and Squaw Creek CHSUs; and the Weiser River basin contains the Weiser River CHSU. All proposed critical habitat designations are associated with populations of bull trout identified as essential to recovery in the Draft Recovery Plan (USFWS 2002), and are essential to the conservation of the species.

#### (i) Anderson Ranch CHSU

This CHSU includes the South Fork Boise River watershed upstream of Anderson Ranch Dam. There are 15 local populations identified within this CHSU, all of which are considered essential for recovery of bull trout (USFWS 2002). Approximate landownership is as follows: 87 percent Federal, 11 percent private, 2 percent State. Proposed critical habitat in this CHSU includes the 1,865 ha (4,608 ac) Anderson Ranch Reservoir. Critical habitat within the Anderson Ranch

CHSU includes the stream segments and water body described below that provide FMO habitat, and allow for the maintenance of genetic exchange by local and potential local populations both within and between CHSUs.

(A) South Fork Boise River from the Anderson Ranch CHSU boundary 8.7 km (5.4 mi) downstream of Anderson Ranch Reservoir upstream to and including the Reservoir, and upstream 77.6 km (48.2 mi) to the point 6.4 km (4.0 mi) above the confluence with Bear Creek is migratory habitat (Partridge *et al.* 2000), and the 6.4 km reach above Bear Creek is suspected to support bull trout spawning and early rearing (C. Reighn, USFWS, *in litt.*, 2002). Dog Creek from the confluence with South Fork Boise River upstream 9.0 km (5.6 mi) to the headwaters is spawning and early rearing habitat (Corley 1997; Boise National Forest (BNF), unpublished 2002).

(B) Feather River from the confluence with South Fork Boise River upstream 10.3 km (6.4 mi) to the confluence of Feather River and Elk Creek is suspected to provide bull trout FMO habitat, as well as to support bull trout spawning and early rearing (C. Reighn, USFWS, *in litt.*, 2002). The Feather River is essential to providing for the recovered distribution of bull trout (USFWS 2002).

(C) Elk Creek from the confluence with the Feather River upstream 11.4 km (7.1 mi) to the headwaters of Elk Creek is spawning and early rearing habitat (Corley 1997; BNF, unpublished 2002). East Fork Elk Creek from the confluence with Elk Creek upstream 4.7 km (2.9 mi) to the headwaters of East Fork Elk Creek is spawning and early rearing habitat (C. Reighn, USFWS, *in litt.*, 2002).

(D) Willow Creek from the confluence with the South Fork Boise River upstream 19.3 km (12.0 mi) to the headwaters of Willow Creek is spawning and early rearing habitat (Corley 1997; Partridge *et al.* 2000; BNF, unpublished 2002).

(E) Big Water Gulch from the confluence with the South Fork Boise River upstream 10.2 km (6.3 mi) to the headwaters of Big Water Gulch is spawning and early rearing habitat (Corley 1997; BNF, unpublished 2002).

(F) Deadwood Creek from the confluence with the South Fork Boise River upstream 6.9 km (4.3 mi) to the headwaters of Deadwood Creek is known to support bull trout spawning and early rearing (Corley 1997; BNF, unpublished 2002).

(G) Skeleton Creek from the confluence with South Fork Boise River upstream 15.0 km (9.3 mi) to the

headwaters of Skeleton Creek (Corley 1997; Partridge *et al.* 2000; BNF, unpublished 2002), Burnt Log Creek from the confluence with Skeleton Creek upstream 4.0 km (2.5 mi) (Partridge *et al.* 2000), West Fork Skeleton Creek from the confluence with Skeleton Creek upstream 5.0 km (3.1 mi) to the headwaters (Corley 1997; BNF, unpublished 2002), and East Fork Skeleton Creek from the confluence with West Fork Skeleton Creek upstream 4.8 km (3.0 mi) (D. Kenney, USFS, *in litt.*, 2002) are known to support bull trout spawning and early rearing.

(H) Boardman Creek from the confluence with South Fork Boise River upstream 14.4 km (8.9 mi) to the headwaters is spawning and early rearing habitat (Corley 1997; BNF, unpublished 2002; Partridge *et al.* 2000; D. Kenney, *in litt.*, 2002). Smoky Dome Canyon from the confluence with Boardman Creek upstream 5.3 km (3.3 mi) to the headwaters is spawning and early rearing habitat (Corley 1997; BNF, unpublished 2002; D. Kenney, *in litt.*, 2002).

(I) Big Smoky Creek from the confluence with South Fork Boise River upstream 18.1 km (11.3 mi) to the confluence of Big Smoky Creek and North Fork Big Smoky Creek is known to provide bull trout FMO habitat (Partridge *et al.* 2000). Salt Creek from the confluence with Big Smoky Creek upstream 8.4 km (5.2 mi) to the headwaters is bull trout spawning and early rearing habitat (BNF, unpublished 2002). Little Smoky Creek from the confluence with Big Smoky Creek upstream 9.5 km (5.9 mi) to the confluence of Little Smoky Creek and Five Points Creek is known to provide bull trout FMO habitat (Sawtooth National Forest, *in litt.*, 2001; D. Kenney, *in litt.*, 2002), and from this point upstream 25.4 km (15.8 mi) to the headwaters is spawning and early rearing habitat (D. Kenney, *in litt.*, 2002). Carrie Creek from the confluence with Little Smoky Creek upstream 11.4 km (7.1 mi) to the headwaters is essential to providing for the recovered distribution of bull trout (USFWS 2002), and is also recently discovered to support bull trout spawning and early rearing (D. Kenney, *in litt.*, 2002). Big Peak Creek from the confluence with Big Smoky Creek upstream 7.4 km (4.6 mi) to the headwaters is essential to providing for the recovered distribution of bull trout (USFWS 2002), and has also recently been identified as supporting bull trout spawning and early rearing (Partridge *et al.* 2000). Big Smoky Creek from the confluence with North Fork Big Smoky Creek upstream

17.3 km (10.8 mi) to the headwaters is spawning and early rearing habitat (Partridge *et al.* 2000). North Fork Big Smoky Creek from the confluence with Big Smoky Creek upstream 4.4 km (2.7 mi) to the confluence of North Fork Big Smoky Creek and Snowslide Creek is FMO habitat (Partridge *et al.* 2000; D. Kenney, *in litt.*, 2002). Snowslide Creek from the confluence with North Fork Big Smoky Creek upstream 4.2 km (2.6 mi) to the headwaters is spawning and early rearing habitat (Partridge *et al.* 2000). Bluff Creek from the confluence with Big Smoky Creek upstream 7.0 km (4.4 mi) to the headwaters of Bluff Creek is known to support bull trout spawning and early rearing (Corley 1997; BNF, unpublished 2002). West Fork Big Smoky Creek from the confluence with Big Smoky Creek upstream 10.7 km (6.7 mi) to the headwaters of West Fork Big Smoky Creek is spawning and early rearing habitat (Corley 1997; Partridge *et al.* 2000; BNF, unpublished 2002). Loggy Creek from the confluence with West Fork Big Smoky Creek upstream 4.5 km (2.8 mi) to the headwaters is spawning and early rearing habitat (Partridge *et al.* 2000; D. Kenney, *in litt.*, 2002).

(J) Bear Creek from the confluence with South Fork Boise River upstream 10.1 km (6.3 mi) to the headwaters, and Goat Creek from the confluence with Bear Creek upstream 2.8 km (1.8 mi) to the headwaters are bull trout spawning and early rearing habitat (Corley 1997; Partridge *et al.* 2000; BNF, unpublished 2002).

(K) Emma Creek from the confluence with South Fork Boise River upstream 9.5 km (5.9 mi) to the headwaters of Emma Creek is known to support bull trout spawning and early rearing (Corley 1997; Partridge *et al.* 2000; BNF, unpublished 2002; D. Kenney, *in litt.*, 2002). An unnamed creek from its confluence with Emma Creek (4.5 km (2.8 mi) upstream of the confluence of Emma Creek with South Fork Boise River) upstream 1.8 km (1.1 mi) to its headwaters is known to support bull trout spawning and early rearing (BNF, *in litt.* 2002; Corley 1997).

(L) Ross Fork Creek from the confluence with South Fork Boise River upstream 6.0 km (3.7 mi) to the headwaters, Little Bear Creek from the confluence with Ross Fork Creek upstream 5.4 km (3.3 mi) to the headwaters (Partridge *et al.* 2000; D. Kenney, *in litt.*, 2002), and Bass Creek from the confluence with Ross Fork Creek upstream 6.5 km (4.0 mi) to the headwaters are spawning and early rearing habitat (Corley 1997; Partridge *et al.* 2000; BNF, unpublished 2002). South Fork Ross Fork Creek from the

confluence with Ross Fork Creek upstream 8.4 km (5.2 mi) to the headwaters (Corley 1997; BNF, unpublished 2002), and North Fork Ross Fork Creek from the confluence with Ross Fork Creek upstream 7.6 km (4.7 mi) to the headwaters are spawning and early rearing habitat (Corley 1997).

(M) Johnson Creek from the confluence with South Fork Boise River upstream 11.9 km (7.4 mi) to the headwaters, and Vienna Creek from the confluence with Johnson Creek upstream 6.1 km (3.8 mi) to the headwaters are bull trout spawning and early rearing habitat (Corley 1997; Partridge *et al.* 2000; BNF, unpublished 2002; D. Kenney, *in litt.*, 2002).

#### (ii) Arrowrock CHSU

The Arrowrock CHSU includes the Boise River watersheds upstream of Arrowrock Dam, including the North Fork Boise River, Middle Fork Boise River, and South Fork Boise River downstream of Anderson Ranch Dam. There are 15 local populations identified within the Arrowrock CHSU. Landownership in this CHSU is approximately as follows: 91 percent Federal (USFS, BLM, BOR), 6 percent private, and 3 percent State. Proposed critical habitat includes Arrowrock Reservoir (3,489 ha (8,617 ac)).

(A) Arrowrock Reservoir provides bull trout FMO habitat (Flatter 1998; Salow 2001), as does the South Fork Boise River from Arrowrock Reservoir upstream 39.0 km (24.2 mi) to Anderson Ranch Dam (Flatter 1998).

(B) Rattlesnake Creek from the confluence of Rattlesnake Creek and South Fork Boise River upstream 26.4 km (16.4 mi) to the headwaters (Flatter 1998; BNF, unpublished 2002), and Russell Gulch from the confluence of Russell Gulch and Rattlesnake Creek upstream 4.0 km (2.5 mi) to the headwaters comprise bull trout spawning and early rearing habitat (Steed *et al.* 1998).

(C) Sheep Creek from the confluence of Sheep Creek and the Boise River upstream 6.9 km (4.3 mi) to the confluence of Sheep Creek and Devils Creek is FMO habitat (Flatter 1998). Sheep Creek from the confluence of Sheep Creek and Devils Creek upstream to the headwaters is spawning and early rearing habitat (BNF, unpublished 2002). Devils Creek from the confluence of Devils Creek and Sheep Creek upstream 5.88 km (3.8 mi) to the headwaters is known to support bull trout spawning and early rearing (Steed *et al.* 1998). East Fork Sheep Creek from the confluence of East Fork Sheep Creek and Sheep Creek upstream 5.76 km (3.6

mi) to the headwaters is spawning and early rearing habitat (Steed *et al.* 1998).

(D) Middle Fork Boise River from the confluence with the Boise River upstream 55.1 km (34.2 mi) is bull trout FMO habitat (Flatter 1998; Salow 2001). Middle Fork Boise River from the confluence of Middle Fork Boise River and Yuba River upstream 24.1 km (15.0 mi) to the headwaters. This reach contains primary constituent elements for bull trout (BNF, unpublished 2002), has recently been occupied by bull trout due to the installation of a fish ladder completed in 1999 (B. Flatter, IDFG, pers. comm., 2002), and provides for population expansion essential to conservation of the species (USFWS 2002).

(E) Roaring River from the confluence of Roaring River and Middle Fork Boise River upstream to the headwaters support bull trout spawning and early rearing (Flatter 1998; BNF, unpublished 2002). East Fork Roaring River from the confluence of East Fork Roaring River and Roaring River upstream 12.0 km (7.4 mi) to the headwaters (Flatter 1998; BNF, unpublished 2002), and Middle Fork Roaring River from the confluence of Middle Fork Roaring River and East Fork Roaring River upstream 8.6 km (5.4 mi) to the headwaters constitute spawning and early rearing habitat (Steed *et al.* 1998).

(F) Buck Creek from the confluence of Buck Creek and the Middle Fork Boise River upstream 11.6 km (7.2 mi) to the headwaters is spawning and early rearing habitat (Steed *et al.* 1998).

(G) Black Warrior Creek from the confluence of Black Warrior Creek and the Middle Fork Boise River upstream 18.8 km (11.6 mi) (BNF, unpublished 2002), and West Warrior Creek from the confluence of West Warrior Creek and Black Warrior Creek upstream 8.6 km (5.3 mi) to the headwaters (Steed *et al.* 1998) are spawning and early rearing habitats. An unnamed creek (SI-A-17) from the confluence with Black Warrior Creek (8.8 km (5.4 mi) upstream of the confluence of Black Warrior Creek with Middle Fork Boise River) upstream 3.0 km (1.9 mi) to the headwaters is spawning and early rearing habitat (BNF, unpublished 2002).

(H) Bald Mountain Creek from the confluence with the Middle Fork Boise River upstream 10.0 km (6.2 mi) to the headwaters is essential habitat for expanding distribution of bull trout (USFWS 2002), and is also recently known to support bull trout spawning and early rearing (BNF, unpublished 2002).

(I) Queens River from the confluence of Queens River and the Middle Fork Boise River upstream 23.4 km (14.6 mi)

to the headwaters (Flatter 1998; Steed *et al.* 1998; BNF, unpublished 2002), Little Queens River from the confluence of Little Queens River and Queens River upstream 14.8 km (9.2 mi) to the headwaters (Flatter 1998; BNF, unpublished 2002), and Scott Creek from the confluence of Scott Creek and Little Queens River upstream 2.5 km (1.5 mi) to the headwaters (Steed *et al.* 1998), are known to support bull trout spawning and early rearing. Tripod Creek from the confluence of Tripod Creek and Little Queens River upstream 3.1 km (1.9 mi) to the headwaters (Steed *et al.* 1998), and Scenic Creek from the confluence of Scenic Creek and Little Queens River upstream 4.2 km (2.6 mi) to the headwaters (BNF, unpublished 2002) support bull trout spawning and early rearing.

(J) Yuba River from the confluence of the Yuba River and Middle Fork Boise River upstream 14.0 km (8.7 mi) to the headwaters, Decker Creek from the confluence of Decker Creek and the Yuba River upstream 12 km (7.5 mi) to the headwaters, and Grouse Creek from the confluence of Grouse Creek and Decker Creek upstream 5.7 km (3.5 mi) upstream to the headwaters are known to support bull trout spawning and early rearing (BNF, unpublished 2002). Sawmill Creek from the confluence of Sawmill Creek and Grouse Creek upstream 6.5 km (4.1 mi) to the headwaters is also spawning and early rearing habitat (BNF, unpublished 2002).

(K) Trail Creek from the confluence with the Yuba River upstream 7.5 km (4.7 mi) to the headwaters is known to support bull trout spawning and early rearing (BNF, unpublished 2002).

(L) Mattingly Creek from the confluence with the Middle Fork Boise River upstream 9.7 km (6.0 mi) to the headwaters is known to contain primary constituent elements as identified for bull trout (BNF, unpublished 2002) and is essential to provide for the conservation of bull trout (USFWS 2002).

(M) North Fork Boise River from the confluence with the Middle Fork Boise River upstream 57.8 km (35.9 mi) to the confluence with Johnson Creek provides FMO habitat (Flatter 1998; BNF, unpublished 2002). Rabbit Creek from the confluence with the North Fork Boise River upstream 1.3 km (0.8 mi) to the confluence with First Creek and Hungarian Creek from the confluence with the North Fork Boise River upstream 0.8 km (0.5 mi) provide thermal refugia habitat for migratory bull trout in the North Fork Boise River (Flatter 1998; BNF, unpublished 2002).

(N) North Fork Boise River from the confluence with Johnson Creek upstream 7.0 km (4.3 mi) provides FMO and spawning and early rearing habitat (Flatter 1998; BNF, unpublished 2002); from the confluence of the North Fork Boise River and Big Silver Creek upstream to the headwaters supports spawning and early rearing (BNF, unpublished 2002). Crooked River from the confluence with the North Fork Boise River upstream 26.5 km (16.4 mi) to the confluence of Crooked River and an unnamed creek 2.5 km (1.6 mi) upstream of Willow Creek, and Ski Creek from the confluence with the Crooked River upstream 3.6 km (2.2 mi) to the headwaters provide habitat essential to provide for the recovery of bull trout (USFWS 2002), and are also recently known to provide bull trout FMO habitat, as well as to support spawning and early rearing (Salow 2001; BNF, unpublished 2002). Crooked River from the confluence with an unnamed creek 2.5 km (1.6 mi) upstream of Willow Creek upstream to the headwaters provides spawning and early rearing habitat (Salow 2001; BNF, unpublished 2002). Pikes Fork Creek from the confluence with the Crooked River upstream 14.1 km (8.8 mi) to the headwaters and Banner Creek from the confluence with Pikes Fork Creek upstream 1.9 km (1.2 mi) are recently known to support bull trout spawning and early rearing (Steed *et al.* 1998; BNF, unpublished 2002) and provide habitat essential for the conservation of bull trout (USFWS 2002).

(O) Bear River from the confluence with the North Fork Boise River upstream 6.2 km (3.8 mi) to the confluence of Bear River and Bear Creek provides both FMO and spawning and early rearing habitat (Flatter 1998). Bear River from the confluence with Bear Creek upstream 15.9 km (9.9 mi), and Louise Creek from the confluence with Bear River upstream 3.4 km (2.1 mi) to the headwaters, support bull trout spawning and early rearing (Steed *et al.* 1998; BNF, unpublished 2002). Cub Creek from the confluence with the Bear River upstream 4.8 km (3.0 mi) to the headwaters, and South Fork Cub Creek from the confluence with Cub Creek upstream 3.5 km (2.2 mi) to the headwaters, are known to support bull trout spawning and early rearing (Steed *et al.* 1998; Salow 2001; BNF, unpublished 2002). Bear Creek, from the confluence with the Bear River upstream 13.2 km (8.2 mi) to the headwaters, provides spawning and early rearing habitat (Salow 2001; BNF, unpublished 2002).

(P) Trail Creek from the confluence with the North Fork Boise River

upstream approximately 0.8 km (0.5 mi) provides thermal refugia for migratory bull trout in the North Fork Boise River (BNF, unpublished 2002).

(Q) Lodgepole Creek from the confluence with the North Fork Boise River upstream 5.6 km (3.5 mi) to the headwaters provides spawning and early rearing habitat (Flatter 1998; Salow 2001; BNF, unpublished 2002).

(R) Johnson Creek from the confluence with the North Fork Boise River upstream 20.0 km (12.4 mi) to the headwaters provides spawning and early rearing habitat (Flatter 1998; Salow 2001; BNF, unpublished 2002).

(S) Big Silver Creek from the confluence with the North Fork Boise River upstream 7.0 km (4.3 mi) to the headwaters, and Little Silver Creek from the confluence with Big Silver Creek upstream 4.1 km (2.6 mi) to the headwaters, provide spawning and early rearing habitat (Salow 2001; BNF, unpublished 2002).

(T) Cow Creek from the confluence with the North Fork Boise River upstream 7.5 km (4.6 mi) to the headwaters is bull trout spawning and early rearing habitat (BNF, unpublished 2002).

(U) Ballentyne Creek from the confluence with the North Fork Boise River upstream 9.9 km (6.2 mi) to the headwaters of Ballentyne Creek provides spawning and early rearing habitat (Flatter 1998; Salow 2001; BNF, unpublished 2002).

(V) West Fork Creek from the confluence with the North Fork Boise River upstream 3.3 km (2.1 mi) to the headwaters supports bull trout spawning and early rearing (BNF, unpublished 2002).

(W) McLeod Creek from the confluence with the North Fork Boise River upstream 5.9 km (3.6 mi) to the headwaters provides spawning and early rearing habitat (Flatter 1998; BNF, unpublished 2002).

(X) McPhearson Creek from the confluence with the North Fork Boise River upstream 5.5 km (3.4 mi) to the headwaters provides bull trout spawning and early rearing habitat (BNF, unpublished 2002).

#### (iii) Lucky Peak CHSU

The Lucky Peak CHSU includes Lucky Peak Reservoir and tributaries entering it, namely the Mores Creek watershed. Migratory bull trout in Lucky Peak Reservoir are entrained from Arrowrock Dam, and some may also be produced in the Mores Creek watershed. Bull trout were located in Mores Creek in 2000 (T. Burton, BNF, *in litt.*, 2000) and this is the only known local population in this CHSU. Approximate

landownership in this CHSU is as follows: 57 percent Federal, 18 percent State, and 25 percent private.

(A) Lucky Peak Reservoir (3,234 ha (7,911 ac)) and Mores Creek from its mouth in Lucky Peak Reservoir upstream approximately 55 km (34 mi) to a culvert on Highway 21 where Hayfork Creek enters the system provide FMO habitat (BOR 2000; H. Roerick, USFS, pers. comm., 2002). Mores Creek from this point upstream 7 km (4.4 mi) to the headwaters supports bull trout spawning and early rearing (BNF, unpublished 2002).

#### (iv) Deadwood River CHSU

This CHSU includes all watersheds in the Deadwood River drainage upstream of Deadwood Dam. There are five local and seven potential local populations identified within this CHSU.

Approximate landownership is as follows: 95 percent Federal and 5 percent private.

(A) Deadwood Reservoir (1,640 ha (4,054 ac)) provides FMO habitat (Allen 1998). The Deadwood River from Deadwood Dam upstream 40 km (25 mi) to the confluence with the East Fork Deadwood River provides FMO habitat.

(B) Trail Creek from the confluence with the Deadwood River upstream 13 km (8 mi) to the headwaters and Daisy Creek from the confluence with Trail Creek upstream 4.9 km (3 mi) to the headwaters provide bull trout spawning and early rearing habitat (Allen 1998; Jimenez and Zaroban 1998; Burton 1999a; BNF, unpublished 2002).

(C) South Fork Beaver Creek from the confluence with the Deadwood River upstream 6 km (3.8 mi) to the headwaters is habitat essential to providing for the recovery of bull trout (USFWS 2002), and has recently been found to provide spawning and early rearing habitat (Allen 1998; BNF, unpublished 2002). An unnamed creek from the confluence with South Fork Beaver Creek (at approximately 2.8 km (1.7 mi) upstream of the confluence of South Fork Beaver Creek with the Deadwood River) upstream 4.4 km (2.7 mi) to the headwaters is known to contain primary constituent elements as identified for bull trout (Jimenez and Zaroban 1998; Burton 1999a) and is habitat necessary to provide for expansion of bull trout populations necessary for recovery (USFWS 2002).

(D) Beaver Creek from the confluence with the Deadwood River upstream 7.8 km (4.9 mi) to the headwaters provides spawning and early rearing habitat (Allen 1998). An unnamed creek from the confluence with Beaver Creek (2.8 km (1.7 mi) upstream of the confluence of Beaver Creek with the Deadwood

River) upstream 3.5 km (2.2 mi) to the headwaters is habitat necessary to provide for expansion of bull trout populations necessary for recovery (USFWS 2002), and is known to contain primary constituent elements as identified for bull trout (Jimenez and Zaroban 1998; Burton 1999a).

(E) Habit Creek from the confluence with Beaver Creek upstream 6 km (3.7 mi) to the headwaters is habitat essential to providing for the recovery of bull trout (USFWS 2002), and has also recently been found to currently provide spawning and early rearing habitat (Allen 1998).

(F) Basin Creek from the confluence with Beaver Creek upstream 3 km (1.9 mi) to the headwaters provides spawning and rearing habitat.

(G) Wild Buck Creek from the confluence with the Deadwood River upstream 6.3 km (3.9 mi) to the headwaters provides spawning and early rearing habitat (Allen 1998; Jimenez and Zaroban 1998; Burton 1999a; BNF, unpublished 2002).

(H) Deer Creek from the confluence with the Deadwood River upstream 16.5 km (10 mi) to the headwaters contains spawning and early rearing habitat (Allen 1998; Jimenez and Zaroban 1998; Burton 1999a; BNF, unpublished 2002). An unnamed creek from the confluence with Deer Creek (3.3 km (2.0 mi) upstream of the confluence of Deer Creek with the Deadwood River) upstream 2.0 km (1.3 mi) to the headwaters provides bull trout spawning and early rearing habitat (BNF, unpublished 2002). An unnamed creek from the confluence with Deer Creek (5.8 km (3.6 mi) upstream of the confluence of Deer Creek with the Deadwood River) upstream 2.0 km (1.3 mi) to the headwaters provides spawning and rearing habitat (BNF, unpublished 2002). North Fork Deer Creek from the confluence with Deer Creek upstream 5.5 km (3.4 mi) to the headwaters contains spawning and early rearing habitat (Allen 1998; Jimenez and Zaroban 1998; Burton 1999a; BNF, unpublished 2002). An unnamed creek from the confluence with Deer Creek (7.8 km (4.8 mi) upstream of the confluence of Deer Creek with the Deadwood River) upstream 1.8 km (1.1 mi) to the headwaters supports spawning and rearing habitat (Jimenez and Zaroban 1998; Burton 1999a; BNF, unpublished 2002).

(I) Goat Creek from the confluence with the Deadwood River upstream 6.4 km (4.0 mi) to the headwaters provides spawning and early rearing habitat (BNF, unpublished 2002) and is habitat essential to the conservation of bull trout (USFWS 2002).

(J) Bitter Creek from the confluence with the Deadwood River upstream 6.0 km (3.7 mi) to the headwaters is habitat necessary to provide for expansion of bull trout populations (USFWS 2002), and is known to contain primary constituent elements for bull trout (Jimenez and Zaroban 1998; Burton 1999a).

(K) Stratton Creek from the confluence with the Deadwood River upstream 5.3 km (3.3 mi) to the headwaters provides spawning and early rearing habitat (Allen 1998) and is essential to the conservation of bull trout (USFWS 2002).

(L) East Fork Deadwood River from the confluence with the Deadwood River upstream 0.4 km (0.2 mi) to a waterfall barrier is habitat necessary to provide for expansion of bull trout populations (USFWS 2002), and is known to contain primary constituent elements for bull trout (Jimenez and Zaroban 1998; Burton 1999a).

(v) Middle Fork Payette River CHSU

This CHSU includes the watersheds upstream from the confluence with the Payette River. There are one local and five potential local populations identified within the Middle Fork Payette River CHSU. Approximate landownership in this CHSU is as follows: 90 percent Federal, 7 percent private, and 3 percent State.

(A) The Middle Fork Payette River from its confluence with the South Fork Payette River upstream 56.3 km (35.0 mi) to the confluence with Bull Creek provides FMO habitat (Jimenez and Zaroban 1998). Middle Fork Payette River from the confluence with Bull Creek upstream 6.8 km (4.2 mi) to the confluence with Ligget Creek provides FMO habitat and may provide spawning and rearing habitat (Jimenez and Zaroban 1998; USFS 2000b, 2002; J. Roy, USFWS, *in litt.*, 2002). From Ligget Creek upstream 10.8 km (6.7 mi) to the headwaters the Middle Fork Payette River provides bull trout spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 2000b, 2002; BNF, unpublished 2002; J. Roy, *in litt.*, 2002). An unnamed creek from its confluence with the Middle Fork Payette River (71.5 km (44.4 mi) upstream of the confluence of the Middle Fork Payette River and the South Fork Payette River) upstream 7.2 km (4.5 mi) to the headwaters is known to support bull trout spawning and early rearing (Jimenez and Zaroban 1998; USFS 2000b, 2002; BNF, unpublished 2002; J. Roy, *in litt.*, 2002). An unnamed creek from its confluence with the Middle Fork Payette River (72.5 km (45.0 mi) upstream of the confluence of the

Middle Fork Payette River and the South Fork Payette River) upstream 3.2 km (2.0 mi) to the headwaters provides occupied spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 2000b, 2002; BNF, unpublished 2002; J. Roy, *in litt.*, 2002). An unnamed creek from its confluence with the Middle Fork Payette River (73.3 km (45.5 mi) upstream of the confluence of the Middle Fork Payette River and the South Fork Payette River) upstream 3.2 km (2.0 mi) to its headwaters provides spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 2002; BNF, *in litt.*, 2002; J. Roy, *in litt.*, 2002).

(B) Lightning Creek from the confluence with the Middle Fork Payette River upstream 21.7 km (13.4 mi) to the headwaters, and Onion Creek from the confluence with Lightning Creek upstream 7.9 km (4.9 mi) to the headwaters of Onion Creek is known to contain primary constituent elements for bull trout (Jimenez and Zaroban 1998; USFS 2000b), and is essential to habitat to provide for expansion of populations essential to the conservation of the species (USFWS 2002).

(C) Silver Creek from the confluence with the Middle Fork Payette River upstream to the headwaters; Peace Creek from the confluence with Silver Creek upstream 6.8 km (4.2 mi) to the headwaters; Valley Creek from the confluence with Peace Creek upstream 8.5 km (5.3 mi) to the headwaters; Ucon Creek from the confluence with Silver Creek upstream 5.0 km (3.1 mi) to the headwaters, and Long Fork Silver Creek from the confluence with Silver Creek upstream 8.5 km (5.3 mi), all are known to contain primary constituent elements for bull trout (Jimenez and Zaroban 1998; USFS 2000b) and are required for expanded bull trout populations that are essential to the conservation of the species (USFWS 2002).

(D) Bull Creek from the confluence with the Middle Fork Payette River upstream 19.5 km (12 mi) to the headwaters provides FMO habitat in the lower reaches and spawning and rearing habitat in the upper areas (Jimenez and Zaroban 1998; USFS 2000b, 2002; J. Roy, *in litt.*, 2002). Oxtail Creek from the confluence with Bull Creek upstream 4.5 km (2.8 mi) to the headwaters provides spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 2000b, 2002; J. Roy, *in litt.*, 2002). Sixteen-to-one Creek from the confluence with Bull Creek upstream 7.8 km (4.8 mi) to the headwaters contains spawning and early rearing habitat (J. Roy, USFWS, *in litt.*, 2002; USFS 2002b).

(vi) Weiser River CHSU

The Weiser River CHSU in Washington and Adams counties in southwestern Idaho includes all watersheds upstream of and including the Little Weiser River watershed. There are five local and seven potential local populations identified within the CHSU. Approximate landownership in the CHSU is as follows: 53 percent Federal, 39 percent private, and 8 percent State.

(A) The Weiser River from the confluence with the Little Weiser River upstream 64.5 km (40.0 mi) to the confluence of the East Fork Weiser River provides connectivity between the Upper Hornet Creek and East Fork Weiser River local populations, and the Pine Creek, Rush Creek, West Fork Weiser River, and Lost Creek potential local populations. The Little Weiser River from the confluence with the Weiser River upstream 55.6 km (34.5 mi) to the confluence with Anderson Creek provides connectivity between the Upper Little Weiser River, Anderson Creek, and Sheep Creek local populations, and the Weiser River and its associated local and potential local populations. The upper Little Weiser River from the confluence with Anderson Creek upstream 16.2 km (10.0 mi) to the headwaters support bull trout spawning and early rearing (DuPont and Kennedy 2000).

(B) Anderson Creek from the confluence with the Little Weiser River upstream 11.2 km (7.0 mi) to the headwaters provides spawning and early rearing habitat (Adams 1994; DuPont and Kennedy 2000).

(C) Sheep Creek from the confluence with Anderson Creek upstream 16.2 km (10.0 mi) to the headwaters provides spawning and early rearing habitat (Adams 1994; DuPont and Kennedy 2000).

(D) East Fork Pine Creek from the confluence with Pine Creek upstream 17.1 km (10.6 mi) to the headwaters contains primary constituent elements for bull trout (DuPont and Kennedy 2000; McGee *et al.* 2001) and is essential to the conservation of bull trout (USFWS 2002).

(E) Rush Creek from the confluence with the Weiser River upstream 30.0 km (18.6 mi) to the headwaters contains primary constituent elements for bull trout (Veatch *et al.* 1998; DuPont and Kennedy 2000) and Williams and Veach (1999) identify Rush Creek as a watershed where bull trout spawning and rearing is likely to occur, although it has not yet been documented. This habitat is essential to the conservation of bull trout (USFWS).



(F) The Middle Fork Weiser River from its confluence with the Weiser River upstream 40.9 km (25.4 mi) contains primary constituent elements for bull trout, although brook trout presence is problematic (D. Burns, USFS, pers. comm., 2002), and is essential to provide for the recovered distribution of bull trout (USFWS 2002).

(G) Hornet Creek from the confluence with the Weiser River upstream 24.7 km (15.3 mi) to the confluence with Disappointment Creek is suspected to provide FMO habitat (J. DuPont, Idaho Department of Lands, *in litt.*, 2000), and is essential to providing connectivity within the Weiser River CHSU. Hornet Creek from the confluence with Disappointment Creek upstream 7.8 km (4.8 mi) to the headwaters provides spawning and early rearing habitat (J. DuPont, *in litt.*, 2000). Olive Creek from the confluence of Olive Creek and Hornet Creek upstream 8.4 km (5.2 mi) to the headwater provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches (J. DuPont, *in litt.*, 1998). An unnamed creek from the confluence with Olive Creek (3.3 km (2.0 mi) upstream of the confluence of Olive Creek with Hornet Creek) upstream 1.8 km (1.1 mi) to the headwaters provides spawning and early rearing habitat (J. DuPont, *in litt.*, 2000). An unnamed creek from the confluence with Olive Creek (5.3 km (3.3 mi) upstream of the confluence of Olive Creek with Hornet Creek) upstream 2.6 km (1.6 mi) to the headwaters is habitat essential to provide for the recovered distribution of bull trout (USFWS 2002). It is suspected to provide bull trout FMO habitat below 1,524 m (5,000 feet (ft)) in elevation, and habitat suitable for spawning and rearing above 1,524 m (5,000 ft) in elevation (J. DuPont, *in litt.*, 2000). Placer Creek from the confluence with Hornet Creek upstream 5.1 km (3.2 mi) to the headwaters provides bull trout spawning and rearing habitat (J. DuPont, *in litt.*, 2000). North Creek from the confluence with Placer Creek upstream 3.4 km (2.1 mi) to the headwaters provides spawning and rearing habitat (J. DuPont, *in litt.*, 2000). Disappointment Creek from the confluence with Hornet Creek upstream 4.2 km (2.6 mi) to the headwaters is habitat essential to provide for the recovered distribution of bull trout (USFWS 2002), and is suspected to provide bull trout FMO habitat below 1,524 m (5,000 ft) in elevation, and habitat suitable for spawning and rearing above 1,524 m (5,000 ft) (J. DuPont, *in litt.*, 2000). Grouse Creek from the confluence with Hornet Creek

upstream 5.2 km (3.2 mi) to the headwaters is habitat essential to provide for the recovered distribution of bull trout (USFWS 2002), and is suspected to provide bull trout FMO habitat below 1,524 m (5,000 ft) in elevation, and habitat suitable for spawning and rearing above 1,524 m (5,000 ft) in elevation (J. DuPont, *in litt.*, 2000). Mill Creek from the confluence with Hornet Creek upstream to the confluence with West Fork Mill Creek is suspected to provide bull trout FMO habitat (J. DuPont, *in litt.*, 2000). Above that point, upstream 4.3 km (2.7 mi) is habitat essential to provide for the recovered distribution of bull trout (USFWS 2002), and is suspected to provide bull trout FMO habitat below 1,524 m (5,000 ft) in elevation, and habitat suitable for spawning and rearing above 1,524 m (5,000 ft) in elevation (J. DuPont, *in litt.*, 2000).

(H) West Fork Weiser River from the confluence with the Weiser River upstream 13.8 km (8.6 mi) to the confluence with Lost Creek is essential habitat for providing connectivity within the Weiser River CHSU (USFWS 2002). Above this point, upstream to the headwaters is habitat known to contain primary constituent elements for bull trout (DuPont and Kennedy 2000; McGee *et al.* 2001) and essential to the recovered distribution of bull trout (USFWS 2002).

(I) Lost Creek from the confluence with the West Fork Weiser River upstream 34.5 km (21.5 mi) to the headwaters is habitat essential to provide for the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements as identified for bull trout (DuPont and Kennedy 2000; D. Olson, USFS, pers. comm., 2002). Lost Valley Reservoir (296 ha; 732 ac) provides connectivity between potential spawning and rearing habitats; bull trout are not known to currently occupy the reservoir.

(J) East Fork Weiser River from the confluence with the Weiser River upstream 24.6 km (15.3 mi) to the headwaters is spawning and rearing habitat (Adams 1994; DuPont and Kennedy 2000; McGee *et al.* 2001). Dewey Creek from the confluence with the East Fork Weiser River to the headwaters provides spawning and rearing habitat (Adams 1994; DuPont and Kennedy 2000; McGee *et al.* 2001).

(vii) Upper South Fork Payette River CHSU

The Upper South Fork Payette River CHSU in Boise and Valley counties in southwestern Idaho includes all watersheds upstream of Big Falls on the South Fork Payette River, including the

Deadwood River drainage downstream of Deadwood Dam. There are nine local populations identified within this CHSU. Approximate landownership in the CHSU is as follows: nearly 100 percent Federal, and less than 1 percent private.

(A) The South Fork Payette River from its confluence with the Middle Fork Payette River upstream 96.8 km (60.1 mi) to the confluence with Baron Creek provides FMO habitat and connectivity between the Scott Creek, Whitehawk Creek, Clear Creek, Eightmile Creek, Wapiti Creek, Canyon Creek, Tenmile Creek, Chapman Creek, and Upper South Fork Payette River local populations, as well as a migratory connection between populations in the South Fork Payette River and Middle Fork Payette River CHSUs (Jimenez and Zaroban 1998; USFS 1999c; Stovall 2001; J. Jimenez, USFS, pers. comm., 2002). Deadwood River from the confluence with the South Fork Payette River upstream 36.6 km (22.7 mi) to Deadwood Dam provides FMO habitat and connectivity between other local populations (Jimenez and Zaroban 1998; USFS 1999c; Stovall 2001). South Fork Payette River from the confluence with Baron Creek upstream 8.5 km (5.2 mi) to the confluence of South Fork Payette River and an unnamed creek provides FMO habitat, and may also support bull trout spawning and early rearing. (Jimenez and Zaroban 1998; USFS 1999c). South Fork Payette River from point upstream 14.5 km (9.0 mi) to the confluence with Benedict Creek contains spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). Baron Creek from the confluence with the South Fork Payette River upstream 12.3 km (7.6 mi) to the confluence with an unnamed creek provides spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). North Fork Baron Creek from the confluence with Baron Creek upstream 2.7 km (1.7 mi) contains spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(B) Scott Creek from the confluence with Deadwood River upstream 12.2 km (7.6 mi) to the headwaters provides FMO habitat in the lower reaches (USFS 1999c; Jimenez and Zaroban 1998), and spawning and early rearing habitat in the upper reaches (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). South Fork Scott Creek from the confluence with Scott Creek upstream 5.7 km (3.5 mi) to the headwaters provides spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).



Smith Creek from the confluence with Scott Creek upstream 4.6 km (2.9 mi) to the headwaters contains bull trout spawning and rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(C) Ninemile Creek from the confluence with the Deadwood River upstream 9.2 km (5.7 mi) is known to contain primary constituent elements for bull trout (Jimenez and Zaroban 1998; USFS 1999c) and is essential to provide for the recovered distribution of bull trout (USFWS 2002).

(D) An unnamed creek from its confluence with the Deadwood River (29.0 km (18.0 mi) upstream of the confluence of the Deadwood River with the South Fork Payette River) upstream 2.2 km (1.3 mi) to the headwaters, No Man Creek from the confluence with the Deadwood River upstream 4.7 km (2.9 mi) to the confluence with an unnamed creek, and another unnamed creek, from the confluence with the Deadwood River (34.0 km (21.1 mi) upstream of the confluence of the Deadwood River with the South Fork Payette River) upstream 1.8 km (1.1 mi) are known to contain primary constituent elements for bull trout (Jimenez and Zaroban 1998; USFS 1999c) and provide habitat essential to the conservation of bull trout (USFWS 2002).

(E) Whitehawk Creek from the confluence with Deadwood River to the confluence of Whitehawk Creek and an unnamed creek 8.3 km (5.2 mi) upstream from the confluence of Whitehawk Creek and Deadwood River (for 8.3 km (5.2 mi)). Whitehawk Creek lies within Valley County. Whitehawk Creek is known to contain primary constituent elements as identified for bull trout (Jimenez and Zaroban 1998; USFS 1999c). North Fork Whitehawk Creek from the confluence with Whitehawk Creek to the headwaters of North Fork Whitehawk Creek (for 5.3 km (3.3 mi)). North Fork Whitehawk Creek lies within Valley County. North Fork Whitehawk Creek is known to contain primary constituent elements as identified for bull trout (Jimenez and Zaroban 1998; USFS 1999c).

(F) Warm Springs Creek from the confluence with the Deadwood River upstream 11.4 km (7.1 mi) to the headwaters provides FMO habitat, and may also support spawning and rearing in the lower reaches, and spawning and rearing habitat in the upper reaches (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). East Fork Warm Springs Creek from the confluence with Warm Springs Creek upstream 8.8 km (5.5 mi) to the headwaters provides spawning and rearing habitat (Jimenez and Zaroban

1998; USFS 1999c; BNF, unpublished 2002). An unnamed creek from the confluence with East Fork Warm Springs Creek (5.0 km (3.1 mi) upstream of the confluence of East Fork Warm Springs Creek with Warm Springs Creek) upstream 1.9 km (1.2 mi) to the headwaters contains spawning and rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). Middle Fork Warm Springs Creek from the confluence with Warm Springs Creek upstream 4.3 km (2.7 mi) to the supports bull trout spawning and earing (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). An unnamed creek from the confluence with Middle Fork Warm Springs Creek (1.8 km (1.1 mi) upstream of the confluence of Middle Fork Warm Springs Creek with Warm Springs Creek) upstream 4.0 km (2.5 mi) to the headwaters supports spawning and early rearing (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(G) Wilson Creek from the confluence with Deadwood Reservoir upstream 16.9 km (10.5 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002).

(H) Clear Creek from the confluence with the South Fork Payette River upstream 12.5 km (7.8 mi) to the confluence with O'Keefe Creek provides FMO habitat (Jimenez and Zaroban 1998; USFS 1999c; Stovall 2001). Clear Creek from the confluence with O'Keefe Creek upstream 18.2 km (11.3 mi) to the confluence of Clear Creek, and an unnamed creek, support bull trout spawning and early rearing (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). Long Creek from the confluence with Clear Creek upstream 5.1 km (3.2 mi) to the confluence with an unnamed creek contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002). An unnamed creek 5.1 km (3.2 mi) upstream from the confluence with Long Creek, and Clear Creek upstream 1.7 km (1 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002). South Fork Clear Creek from the confluence with Clear Creek upstream 7.5 km (4.7 mi) to the headwaters supports bull trout spawning and early rearing (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(I) Kettle Creek from the confluence with the South Fork Payette River upstream 5.2 km (3.3 mi) to the headwaters provides spawning and rearing habitat (BNF, unpublished 2002).

(J) Eightmile Creek from the confluence with the South Fork Payette River upstream 7.4 km (4.6 mi) to the confluence with an unnamed creek provides FMO habitat (Jimenez and Zaroban 1998; USFS 1999c); above this point upstream to the headwaters contains spawning and rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). East Fork Eightmile Creek from the confluence with Eightmile Creek upstream to the confluence with an unnamed creek 4.2 m (2.6 mi) from the confluence of East Fork Eightmile Creek with Eightmile Creek provides FMO habitat (Jimenez and Zaroban 1998; USFS 1999c). East Fork Eightmile Creek from this point upstream to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002). An unnamed creek from the confluence with Eightmile Creek (4.5 km (2.8 mi) upstream of the confluence of Eightmile Creek with the South Fork Payette River) upstream 4.8 km (3.0 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002). Another unnamed creek from its confluence with Eightmile Creek (7.3 km (4.5 mi) upstream of the confluence of Eightmile Creek with the South Fork Payette River) upstream 3.7 km (2.3 mi) to the headwaters provides spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). Another unnamed creek from the confluence with Eightmile Creek (7.5 km (4.7 mi) upstream of the confluence of Eightmile Creek with the South Fork Payette River) upstream 3.4 km (2.1 mi) to the headwaters contains spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(K) Tenmile Creek from the confluence with the South Fork Payette River upstream 7.2 km (4.5 mi) to the confluence with an unnamed creek provides FMO habitat (Jimenez and Zaroban 1998; USFS 1999c), and above this point to the headwaters is a combination of FMO and spawning and rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002). An unnamed creek from the

confluence with Tenmile Creek (9.8 km (6.1 mi) upstream of the confluence of Tenmile Creek with the South Fork Payette River) upstream 3.4 km (2.1 mi) to the headwaters is habitat essential to the recovered distribution of bull trout (USFWS 2002), and contains primary constituent elements for bull trout (Jimenez and Zaroban 1998; USFS 1999c). An unnamed creek from the confluence with Tenmile Creek (11.5 km (7.1 mi) upstream of the confluence of Tenmile Creek with the South Fork Payette River) upstream 2.5 km (1.5 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002). Another unnamed creek from the confluence with Tenmile Creek (13.3 km (8.2 mi) upstream of the confluence of Tenmile Creek with the South Fork Payette River) upstream 2.7 km (1.7 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002).

(L) Chapman Creek from the confluence with the South Fork Payette River upstream 6.1 km (3.8 mi) to the headwaters of Chapman Creek supports bull trout spawning and early rearing (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(M) Warm Springs Creek from the confluence with the South Fork Payette River upstream 4.8 km (3 mi) to the confluence with Bush Creek provides FMO habitat. Upstream 14.3 km (8.9 mi) of this point to the confluence with Gates Creek is habitat essential to the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements as identified for bull trout (Jimenez and Zaroban 1998; USFS 1999c). Gates Creek from the confluence with Warm Springs Creek upstream 6.8 km (4.3 mi) to the headwaters is habitat essential to the recovered distribution of bull trout (USFWS 2002), and has recently been found to support bull trout spawning and early rearing (BNF, unpublished 2002).

(N) Canyon Creek from the confluence with the South Fork Payette River upstream 17.1 km (10.6 mi) to the headwaters provides spawning and rearing habitat (BNF, unpublished 2002). South Fork Canyon Creek from the confluence with Canyon Creek upstream 2.4 km (1.5 mi) to the confluence of South Fork Canyon Creek and an unnamed creek supports bull trout spawning and rearing (BNF, unpublished 2002). North Fork Canyon

Creek from the confluence with Canyon Creek upstream 1.9 km (1.2 mi) to the confluence with an unnamed creek provides spawning and early rearing habitat (BNF, unpublished 2002). An unnamed creek from the confluence with North Fork Canyon Creek (2 km (1.2 mi) upstream of the confluence of North Fork Canyon Creek with Canyon Creek) upstream 4.6 km (2.8 mi) contains spawning and rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(O) Wapiti Creek from the confluence with the South Fork Payette River upstream 5.5 km (3.4 mi) to the confluence of Wapiti Creek and an unnamed creek contains spawning and early rearing habitat (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

(P) Trail Creek from the confluence with the South Fork Payette River upstream 5.8 km (3.6 mi) to the confluence with an unnamed creek supports bull trout spawning and early rearing (Jimenez and Zaroban 1998; USFS 1999c; BNF, unpublished 2002).

#### (viii) North Fork Payette River CHSU

The North Fork Payette River CHSU in Valley County in southwestern Idaho includes the North Fork Payette River watershed upstream of Cascade Dam. There are one local and six potential local populations identified within the North Fork Payette River CHSU, all of which are essential for recovery (USFWS 2002). The CHSU includes 229.76 km (142.77 mi) of streams that are proposed as critical habitat, which represents approximately 17.28 percent of the total stream miles in the North Fork Payette River CHSU. Approximate landownership is as follows: 47 percent Federal, 34 percent private, and 10 percent State. Critical habitat includes all stream segment units described below which provide FMO habitat, and allow for the maintenance of genetic exchange by local and potential local populations both within and between CHSUs.

(A) Gold Fork River from the confluence with Davis Creek upstream 20.2 km (12.5 mi) to the confluence with the North and South Forks Gold Fork River. This reach provides migratory habitat and connectivity between the Gold Fork local population and the Kennally Creek potential local population. South Fork Gold Fork River from the confluence with the Gold Fork River upstream 7.4 km (4.6 mi) to the headwaters provides spawning and rearing habitat (Steed 1999; USFS 2000c). North Fork Gold Fork River from the confluence with the Gold Fork River upstream 15.9 km (9.9 mi) to the

headwaters provides spawning and rearing habitat (Steed 1999; USFS 2000c). Foolhen Creek from the confluence with Gold Fork River upstream 8.6 km (5.3 mi) to the headwaters, and Spruce Creek from the confluence with Gold Fork River upstream 2.8 km (1.75 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998), and is essential to provide for the recovered distribution of the species (USFWS 2002). Lodgepole Creek from the confluence with Gold Fork River upstream 5.0 km (3.1 mi) to the headwaters and an unnamed creek from the confluence with Gold Fork River (7.8 km (4.8 mi) upstream of the confluence of the North Fork Gold Fork River with Gold Fork River) upstream 3.1 km (1.9 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002). An unnamed creek from the confluence with the North Fork Gold Fork River (8.6 km (5.3 mi) upstream of the confluence of the North Fork Gold Fork River with Gold Fork River) upstream 2.9 km (1.8 mi) to the headwaters provides spawning and rearing habitat and is suspected to support bull trout spawning and early rearing (Steed 1999; Roy, *in litt.*, 2002). An unnamed creek from the confluence with the North Fork Gold Fork River (9.0 km (5.6 mi) upstream of the confluence of the North Fork Gold Fork River with Gold Fork River) upstream 3.2 km (2.0 mi) to the headwaters supports bull trout spawning and early rearing (Steed 1999; USFS 2000c). An unnamed creek from the confluence with the the North Fork Gold Fork River (9.3 km (5.7 mi) upstream of the confluence of the North Fork Gold Fork River with Gold Fork River) upstream 4.7 km (2.9 mi) to the headwaters provides spawning and early rearing habitat (Steed 1999; USFS 2000c).

(B) Kennally Creek from the confluence with the Gold Fork River upstream 21.3 km (13.2 mi) to the confluence with the North and South Forks, and Rapid Creek from the confluence with Kennally Creek upstream 17.0 km (10.6 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the conservation of the species (USFWS 2002).

(C) Cascade Reservoir (7,246 ha (17,905 ac)) will provide FMO habitat for Gold Fork River bull trout, and connectivity between the Gold Fork local population and the Lake Fork, North Fork Lake Fork, and South Fork

Lake Fork potential local populations as recovery actions are implemented (J. Roy, *in litt.*, 2002; USFWS 2002). Bull trout are currently entrained through an irrigation diversion on Gold Fork River into Cascade Reservoir.

(D) North Fork Payette River from the confluence with Cascade Reservoir upstream 1.4 km (0.9 mi) to the confluence with Mud Creek. As recovery actions are implemented, the North Fork Payette River will provide FMO habitat and connectivity between the Gold Fork local population, and the Lake Fork, North Fork Lake Fork, and South Fork Lake Fork potential local populations (USFWS 2002). Lake Fork from the confluence with Mud Creek upstream 68.6 km (42.6 mi) to the confluence with Little Payette Lake. As recovery actions are implemented, this reach will provide FMO habitat and connectivity between the Gold Fork local population, and the Lake Fork, North Fork Lake Fork, and South Fork Lake Fork potential local populations (USFWS 2002). Little Payette Lake (582 ha (1,439 ac)) will provide FMO habitat for Lake Fork, North Fork Lake Fork, and South Fork Lake Fork potential local populations, and will provide connectivity between these potential local populations and the Gold Fork local population as recovery actions are implemented (USFWS 2002). Lake Fork from the confluence with Little Payette Lake upstream 16.9 km (10.5 mi) to the confluence with the North and South Forks Lake Fork provides habitat essential to the recovered distribution for bull trout (USFWS 2002) and is known to contain primary constituent elements as identified for the species (USFS 1998c; 2001c). North Fork Lake Fork from the confluence with Lake Fork upstream 16.3 km (10.1 mi) to the headwaters provides suitable habitat for bull trout spawning and rearing (USFS 1998c, 2001c). South Fork Lake Fork from the confluence with Lake Fork upstream 5.7 km (3.5 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002).

(ix) Squaw Creek CHSU

The Squaw Creek CHSU in Gem, Boise, and Valley counties in southwestern Idaho includes all watersheds in Squaw Creek upstream from its confluence with the Payette River. Bull trout in this CHSU are primarily resident fish, although they have recently been found in the lower reaches of Squaw Creek, suggesting a migratory component (Steed 1999).

There are two local and three potential local populations identified within the Squaw Creek CHSU. Approximate landownership is as follows: 48 percent Federal, 47 percent private, and 5 percent State. We are proposing critical habitat designation of 192.41 km (119.56 mi) of stream, which represents approximately 28 percent of the total stream miles in the Squaw Creek CHSU. Critical habitat within the Squaw Creek CHSU includes all stream segment units described below which provide FMO habitat, and allow for the maintenance of genetic exchange by local and potential local populations both within and between CHSUs.

(A) Squaw Creek from its confluence with the Payette River upstream 75.9 km (47.2 mi) to the confluence with Cold Spring Creek provides connectivity between the Squaw Creek and Third Fork Squaw Creek local populations, and the Second Fork Squaw Creek, and Sagehen Creek potential local populations. Squaw Creek from the confluence with Cold Spring Creek upstream 19.1 km (11.9 mi) to the headwaters contains spawning and early rearing habitat (Steed 1999). Pole Creek from the confluence with Squaw Creek upstream 4.1 km (2.5 mi) to the headwaters also provides spawning and rearing habitat (Steed 1999). An unnamed creek from the confluence with Squaw Creek (83.8 km (52.0 mi) upstream of the confluence of Squaw Creek with the Payette River) upstream 2.6 km (1.6 mi) to the headwaters provides spawning and early rearing habitat (Steed 1999). Another unnamed creek from the confluence with Squaw Creek (86.0 km (53.0 mi) upstream of the confluence of Squaw Creek with the Payette River) upstream 3.6 km (2.2 mi) to the headwaters also provides spawning and rearing habitat (Burton 1999b; 1999; Steed 1999). An unnamed creek from the confluence with the previous unnamed creek (0.5 km (0.3 mi) upstream of the confluence of the previous unnamed creek with Squaw Creek) upstream to the headwaters provides habitat essential to the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements as identified for bull trout (Burton 1999b; Steed 1999). Poison Creek from the confluence with Squaw Creek upstream 2.7 km (1.7 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002).

(B) Third Fork Squaw Creek from the confluence with Squaw Creek upstream 10.6 km (6.6 mi) to the confluence with

an unnamed creek provides FMO habitat (Steed 1999). From this point upstream 6.6 km (4.1 mi) Third Fork Squaw Creek provides spawning and early rearing habitat (Burton 1999b; Steed 1999). An unnamed creek from the confluence with Third Fork Squaw Creek (10.8 km (6.7 mi) upstream of the confluence of Third Fork Squaw Creek with Squaw Creek) upstream 7.3 km (4.5 mi) to the headwaters provides spawning and early rearing habitat (Burton 1999b; Steed 1999). Another unnamed creek from the confluence with the previous unnamed creek (1.8 km (1.1 mi) upstream of the confluence of the previous unnamed creek with Third Fork Squaw Creek) upstream 4.0 km (2.5 mi) to the headwaters also provides spawning and rearing habitat (Burton 1999b). Another unnamed creek from the confluence with the previously described unnamed creek (2.8 km (1.7 mi) upstream of the confluence of the previous unnamed creek with Third Fork Squaw Creek) upstream 1.8 km (1.1 mi) to the headwaters contains bull trout primary constituent elements (Jimenez and Zaroban 1998; USFS 1999c), and is essential to provide for the recovered distribution of the species (USFWS 2002). An unnamed creek from the confluence with Third Fork Squaw Creek (12 km (7.5 mi) upstream of the confluence of Third Fork Squaw Creek with Squaw Creek) upstream 3.2 km (2.0 mi) to the headwaters provides spawning and rearing habitat (Burton 1999b; Steed 1999). Second Fork Squaw Creek from the confluence with Squaw Creek upstream 11.3 km (7.0 mi) to the confluence with Sage Hen Creek provides FMO habitat (Steed 1999), and from this point upstream 6.7 km (4.2 mi) to the headwaters provides habitat essential to the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements for the species (Burton 1999b; Steed 1999). Renwick Creek from the confluence with Second Fork Squaw Creek upstream 6.1 km (3.8 mi) to the headwaters and Antelope Creek from the confluence with Second Fork Squaw Creek upstream 6.1 km (3.8 km) to the headwaters provides habitat essential to the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements for the species (Burton 1999b; Steed 1999).

(C) Sage Hen Creek from the confluence with Second Fork Squaw Creek upstream 5.2 km (3.2 mi) to the dam on Sage Hen Reservoir provides FMO habitat (Steed 1999). Sage Hen Creek from the dam on Sage Hen Reservoir upstream 7.4 km (4.6 mi) to the headwaters provides habitat

essential to the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements for bull trout (Burton 1999b; Steed 1999). An unnamed creek from the confluence with Sage Hen Creek (5.3 km (3.3 mi) upstream of the confluence of Sage Hen Creek with Second Fork Squaw Creek) upstream 2.9 km (1.4 mi) to the headwaters provides habitat essential to the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements for the species (Burton 1999b; Steed 1999). Joes Creek from the confluence with Sage Hen Creek upstream 5.3 km (3.3 mi) to the headwaters of Joes Creek provides habitat essential to the recovered distribution of bull trout (USFWS 2002), and is known to contain primary constituent elements for bull trout (Burton 1999b; Steed 1999). Sage Hen Reservoir (96 ha; 238 ac) provides suitable FMO habitat (Steed 1999; Burton 1999) to provide for the recovered distribution of bull trout (USFWS 2002).

#### (22) Unit 18: Little Lost River Basin

The Little Lost River Unit is within Butte, Custer, and Lemhi counties in east-central Idaho. Approximately 184.6 km (115.4 mi) of stream in the Little Lost River Basin is proposed for critical habitat designation. Approximately 76 percent of the unit is located on Federal land (BLM and USFS), 22 percent is on private land, and 2 percent is on State land. There are 10 known local populations in the Little Lost River Basin and the Draft Recovery Plan (USFWS 2002) states that the persistence of all 10 populations is needed for species' recovery. The following stream segments are proposed for designation as critical habitat in the Little Lost River unit:

(i) The Little Lost River, beginning at the flood control structure at rkm 18.4 (rmi 11.4) and continuing upstream for 84.3 km (52.4 mi) to source springs at rkm 102.7 (rmi 63.8). The river from the flood control structure to Iron Creek (at rkm 93.3 (rmi 57.9)) is an important migratory corridor, as well as a key foraging and rearing area for sub-adult and adult fluvial bull trout associated with upstream local populations (Gamett 1999). The Little Lost River headwaters above Iron Creek, including 0.8 km (0.5 mi) of the Right Fork Little Lost River and 2.1 km (1.3 mi) of Firebox Creek, are occupied spawning and rearing habitat and collectively support a local population. (**Note:** USGS and STREAMNET maps show the Little Lost River transforming into Sawmill Creek in its upstream reaches. However, the USFS Lost River Ranger District

maps show the Little Lost River continuing under that name up to its headwaters. We have described proposed critical habitat in accordance with the latter).

(ii) Badger Creek from its confluence with the Little Lost River (at rkm 45.6 (rmi 28.3)) upstream 11.7 km (7.3 mi) to its source springs and including the Bunting Canyon Creek tributary. There is a headcut on Bunting Canyon Creek approximately 300 m (984 ft) upstream of its mouth that forms a small barrier. Badger Creek and Bunting Canyon Creek below the headcut provide spawning and rearing habitat for a known bull trout local population (Gamett 1999). The 3.1 km (1.9 mi) segment of Bunting Canyon Creek above the headcut is not currently known to be occupied, but is identified in the Draft Recovery Plan (USFWS 2002) as essential to providing for the recovered distribution of bull trout.

(iii) Williams Creek from its confluence with the Little Lost River (at rkm 54.1) upstream 5.1 km (3.2 mi) to the confluence with an unnamed tributary. The unnamed tributary from its confluence with Williams Creek upstream 1.1 km (0.7 mi) to its source springs. A local bull trout population exists in Williams Creek above an irrigation diversion at rkm 1.3 (rmi 0.8) and spawning and rearing occurs from rkm 3.4 to rkm 5.1 as well as in the entire length of the unnamed tributary (Gamett 1999). The Draft Recovery Plan (USFWS 2002) identifies the 1.3 km (0.8 mi) stream reach below the diversion as important to restoring connectivity to this local population, and providing additional habitat needed to achieve target population levels in this area.

(iv) Wet Creek from its confluence with the Little Lost River (at rkm 56.8 (rmi 35.3)) upstream for a distance of 28.8 km (18.0 mi) to a barrier falls above Hilt Creek, and including 7.0 km (4.4 mi) of the Big Creek tributary. Wet Creek currently supports a local bull trout population, with spawning and rearing occurring in the uppermost 3.2 km (2.0 mi). Although bull trout have not been recently documented in Big Creek, spawning and rearing habitat has been identified in its upper reaches (Gamett 1999).

(v) Warm Creek from its confluence with the Little Lost River (at rkm 81.9 (rmi 50.9)) upstream for 3.4 km (2.1 mi) to its source springs. This stream supports a known bull trout local population, and spawning and rearing occurs in the upper 2.7 km (1.3 mi) (Gamett 1999).

(vi) Squaw Creek from its confluence with the Little Lost River (at rkm 86.2 (rmi 53.5)) upstream for 6.6 km (4.1 mi)

to its source spring and including 0.6 km (0.4 mi) of the North Fork Squaw Creek, and 3.0 km (1.9 mi) of an unnamed tributary that joins Squaw Creek at rkm 4.2 (rmi 2.6). These streams are currently occupied and collectively are considered a distinct local population (USFWS 2002); all but the lowest 0.2 km (0.1 mi) of Squaw Creek contain spawning and rearing habitat.

(vii) Mill Creek from its confluence with the Little Lost River (at rkm 89.6 (rmi 55.6)) upstream for 4.5 km (2.8 mi) to a barrier falls. This stream supports a known bull trout local population and all but the lowest 0.2 km (0.1 mi) is spawning and rearing habitat (Gamett 1999).

(viii) Iron Creek from its confluence with the Little Lost River (at rkm 93.3 (rmi 57.9)) upstream for 3.2 km (2.0 mi) and including the following tributaries: 1.0 km (0.6 mi) of Left Fork Iron Creek, 0.3 km (0.2 mi) of Right Fork Iron Creek, all 2.2 km (1.4 mi) of Jackson Creek, and all 2.2 km (1.4 mi) of Hawley Creek. These streams are currently occupied and collectively form a distinct local population (USFWS 2002); the entire area contains spawning and rearing habitat (Gamett 1999).

(ix) Timber Creek from its confluence with the Little Lost River (at rkm 95.4 (rmi 59.2)) upstream for 5.8 km (3.6 mi) to its source springs and including the following tributaries: 1.3 km (0.8 mi) of Camp Creek, 1.1 km (0.7 mi) of Redrock Creek, and 0.5 km (0.3 mi) of Slide Creek. These streams are currently occupied and collectively form a distinct local population (USFWS 2002); the entire area contains spawning and rearing habitat (Gamett 1999).

(x) Smithie Fork Creek from its confluence with the Little Lost River (at rkm 99.5 (rmi 61.8)) upstream for 5.0 km (3.1 mi) to its source springs. This stream supports a known bull trout local population. The entire area contains spawning and rearing habitat (Gamett 1999).

#### (23) Unit 19: Lower Columbia River Basin

The Lower Columbia Unit consists of portions of the Lewis, White Salmon, and Klickitat Rivers, and associated tributaries in southwestern and south-central Washington. The unit extends across Clark, Cowlitz, Kilickitat, Skamania, and Yakima counties. Approximately 340 km (210 mi) of stream and 3 reservoirs covering 5,054 ha (12,488 ac) are proposed for critical habitat designation. Currently, there are three bull trout local populations in the Lewis River watershed and one in the Klickitat River. The Draft Recovery Plan

(USFWS 2002) indicates it is essential to the conservation of the species to maintain those four local populations and establish four additional populations within the Lewis River watershed, and one in the White Salmon.

(i) Lewis River CHSU

Proposed critical habitat in the Lewis River CHSU covers 179 km (110 mi) of stream and 5,054 ha (12,488 ac) of lake habitat. The CHSU is approximately 64 percent private land, 29 percent Federal land, 7 percent State land. Proposed critical habitat for this CHSU is described below.

(A) The lower Lewis River from its confluence with the Columbia River upstream 31.4 km (19.5 mi) to Merwin Dam. Bull trout are occasionally observed below Merwin Dam (PacifiCorp and Cowlitz County PUD 2001), and the reach provides important foraging and overwintering habitat, and connectivity to the Columbia River once fish passage at Merwin, Yale, and Swift Dams is restored. Restoring connectivity among local populations and to the Columbia River is necessary to maintain opportunities for genetic exchange, refund local populations, and provide access to additional foraging and overwintering habitat (Rieman and McIntyre 1993; USFWS 2002).

(B) Merwin Reservoir, which when full, covers 1,620 ha (4,000 ac) along approximately 23.8 km (14.8 mi) of the Lewis River from rkm 31.4 (rmi 19.5) to rkm 55.2 (rmi 34.3), and including Speelyai Creek from its confluence with the lake upstream 5.1 km (3.2 mi) to a chute barrier. Merwin Reservoir is the lowest reservoir on the Lewis River; bull trout currently found in this lake are believed to be coming through the Yale Dam spillway and turbines (USFWS 2002). Merwin Reservoir provides foraging and overwintering habitat to allow maturation of bull trout trapped below Yale Dam until they can be transported to Cougar Creek as spawners. The lake also provides habitat to support establishment of a local population in Speelyai Creek. This creek is identified in the Draft Recovery Plan (USFWS 2002) as spawning and rearing habitat that could support an additional local population. Springs and seeps in lower Speelyai Creek, below a diversion canal to Yale Reservoir, currently supply cold water to the Speelyai Fish Hatchery. Establishing fish passage at the hatchery would allow bull trout to access suitable spawning and rearing habitat above the hatchery.

(C) Yale Reservoir, which covers 1,539 ha (3,800 ac) along approximately 21.4 km (13.3 mi) of the Lewis River

from rkm 55.2 (rmi 34.3) to rkm 76.6 (rmi 47.6), and including the following stream reaches which flow into it: Cougar Creek from its confluence with the lake upstream 2.7 km (1.7 mi) to a lava tube barrier; the 4.3 km (2.3 mi) Swift Bypass reach; Ole Creek from its confluence with the Swift bypass reach upstream 1.3 km (0.8 mi) to a barrier falls and extending up Rain Creek 1.4 km (0.9 mi). Yale Reservoir is currently occupied and provides essential foraging and overwintering habitat for the local population that spawns and rears in Cougar Creek. The Swift Bypass Reach is essential as a site for establishing an additional local population, and to provide bull trout access to Rain and Ole Creeks for establishing an additional local population (Recovery Criteria 1 and 4 in the Lower Columbia Unit Chapter, USFWS 2002). Ole Creek, together with Rain Creek, is identified as suitable spawning and rearing habitat where an additional local population could be established (USFWS 2002).

(D) Swift Creek Reservoir, which when full covers 1,895 ha (4,680 ac) along approximately 18.5 km (11.5 mi) of the Lewis River from rkm 76.6 (rmi 47.6) to rkm 95.1 (rmi 59.1), and extending up 0.5 km (0.3 mi) of Swift Creek from the end of the Swift Arm segment of the reservoir to a barrier falls, and 2.0 km (1.3 mi) up an unnamed tributary (identified as S15 in PacifiCorp and Cowlitz County PUD 2000) that enters the reservoir from the south at rkm 84.5 (rmi 52.5). This area is currently occupied and provides important foraging and overwintering habitat for the two bull trout local populations that spawn in Rush and Pine Creek.

(E) Upper Lewis River from the eastern edge of Swift Creek Reservoir (rkm 95.1 (rmi 59.1)) upstream 43.6 km (27.1 mi) to Twin Falls and including the following tributaries: Pine Creek from its confluence with the Lewis River at rkm 95.8 (rmi 59.5) upstream 12.9 km (8.0 mi) to its headwaters, and extending 1.8 km (1.1 mi) up an unnamed tributary which branches off Pine Creek at rkm 4.7 (rmi 2.9) (identified as P7 in PacifiCorp and Cowlitz County PUD 2000), 6.7 km (4.2 mi) up another unnamed tributary (identified as P8 in PacifiCorp and Cowlitz County PUD 2000) which branches off Pine Creek at rkm 6.0 (rmi 3.7), and 0.4 km (0.3 mi) up another unnamed tributary (identified as P10 in PacifiCorp and Cowlitz County PUD 2000) which branches off Pine Creek at rkm 8.4 (rmi 5.2); Rush Creek from its confluence with the Lewis River at rkm 104.0 (rmi 64.6) upstream 2.7 km (1.7

mi) to a barrier falls; the upper Lewis River from the east end of Swift Creek Reservoir up to a barrier falls at rkm 116.2 (rmi 72.2) is currently occupied, providing foraging and overwintering habitat for bull trout that spawn in Pine and Rush Creeks, and providing connectivity to the reservoir. Bull trout are known to occupy the identified reaches of Pine and Rush Creeks and the "P7" unnamed tributary of Pine Creek. Current occupancy is unknown in the "P8" and "P10" Pine Creek tributaries; however they both are reported to be "very good salmonid habitat" (PacifiCorp and Cowlitz County PUD 2000) and are considered essential to provide for continued recovery of bull trout in Pine Creek, which was severely impacted by the eruption of Mount St. Helens in 1980. Current occupancy is also unknown for the 22.5 km (14.0 mi) of the Lewis River from the barrier falls at rkm 116.2 (rmi 72.2) to Twin Falls. This stretch is identified in the Draft Recovery Plan (USFWS 2002) as an area suitable for establishing an additional local population. The multiple falls reach, from rkm 116.2 (rmi 72.2) to rkm 120.4 (rmi 74.8), is included to maintain connectivity between a possible existing, or possible eventual (re)introduced, resident local population above the falls and existing bull trout populations below the falls.

(ii) White Salmon River CHSU

(A) Proposed critical habitat in this CHSU consists of 25.7 km (16.0 mi) of the White Salmon River and is approximately 98 percent private land, 2 percent Federal land, and less than 1 percent State land. The White Salmon River flows from the southwestern slope of Mount Adams to the Columbia River (Bonneville pool). Condit Dam currently forms Northwestern Lake. The scheduled removal of Condit Dam in 2006–2007 will result in removal of the reservoir and restoration of the White Salmon river to its former river channel. The White Salmon River is a historic bull trout locality, but no recent spawning has been observed in this drainage. However, suitable habitat exists and recovery criteria call for the reestablishment of a local population in this drainage (USFWS 2002). The 5.3 km (3.3 mi) reach of the White Salmon from the confluence with the Columbia River upstream to Condit Dam will provide an important corridor to the Columbia River when fish passage at Condit Dam is restored. The 2.4 km-long (1.5 mi-long) reservoir behind Condit Dam, Northwestern Lake, currently provides foraging and overwintering habitat for a remnant population of bull trout and/or to support establishment of

a spawning population in the upper watershed. Following the removal of Condit Dam, the critical habitat designation in this stream segment will be restricted to the restored river channel of the section of the White Salmon River that is currently contained within Northwestern Lake. This restored section of the White Salmon River will provide FMO habitat for a restored bull trout population (USFWS 2002). The 18.0 km (11.2 mi) stretch of the White Salmon River from the upper edge of Northwestern Lake to BZ Falls is also suitable foraging and overwintering habitat. With the restoration of the White Salmon river in the Northwestern Lake segment, designated critical habitat will include the White Salmon river for 26 km (16 mi) from the confluence with the Columbia River to BZ falls. Given the lack of specific information on conditions in upper tributary streams, no potential spawning and rearing habitat is being proposed as critical habitat.

(iii) Klickitat River CHSU

Proposed critical habitat in the Klickitat CHSU covers 135.5 km (84.2 mi) of stream. Approximately 42 percent of the CHSU is within the Yakama Nation Reservation, 35 percent is private land, 17 percent is State land, and 6 percent is Federal land. Tribal lands need to be included as critical habitat in this area because the West Fork Klickitat River, and its tributaries within the Yakama Reservation, supports the only known bull trout local population in the Klickitat drainage.

(A) Klickitat River from its confluence with the Columbia River upstream 103.3 km (64.2 mi) to Castile Falls. This section of the Klickitat River is currently occupied foraging and overwintering habitat, and is essential for maintaining connectivity with the Columbia River. The West Fork Klickitat River from its confluence with the Klickitat River at rkm 101.5 (rmi 63.0) upstream 7.2 km (4.5 mi) to the junction of Little Muddy Creek and Fish Lake Stream. The West Fork Klickitat River below the falls at rkm 0.5 (rmi 0.3) provides foraging and overwintering habitat for bull trout in the mainstem Klickitat River. Above the falls, the West Fork Klickitat River and the identified tributaries contain occupied spawning and rearing habitat (Washington Department of Fish and Wildlife (WDFW) 1998; Byrne *et al.*, unpublished 2000). Maintaining the resident bull trout population in the West Fork Klickitat River and its tributaries is essential because it is the only known local population in the Klickitat drainage.

(B) Little Muddy Creek for a distance of 3.4 km (2.1 mi) to the confluence with Crawford Creek and extending 1.3 km (0.8 mi) up Clearwater Creek and 3.4 km (2.1 mi) up Trappers Creek.; Fish Lake Stream for a distance of 9.7 km (6.0 mi) to the confluence with Two Lakes Stream and extending 6.9 km (4.3 mi) up an unnamed tributary that meets Fish Lake Stream at rkm 8.0 (rmi 5.0) and also extending 1.3 km (0.8 mi) up Two Lakes Stream.

(24) Unit 20: Middle Columbia River Basin

The Middle Columbia River unit encompasses the entire Yakima River basin located in south central Washington, draining approximately 15,900 square km (6,155 square mi). The basin occupies most of Yakima and Kittitas counties, about half of Benton County, and a small portion of Klickitat County. Thirteen local populations of bull trout occur in this unit: the mainstem Yakima River (Keechelus to Easton Reach); Ahtanum Creek; American River; Rattlesnake Creek; Crow Creek; South Fork Tieton River; Indian Creek; Deep Creek; North Fork Teanaway River; Box Canyon Creek; Upper Kachess River; Gold Creek; and the Cle Elum River, all of which are essential to recovery. The Draft Recovery Plan (USFWS 2002) recommends the establishment of three other local populations in the North Fork Tieton River, Middle Fork Teanaway River, and Taneum Creek. Approximately 846 km (529 mi) of stream habitat and 6,066 ha (14986 ac) of lake and reservoir surface area are proposed as critical habitat within this unit. Of the stream segments proposed as critical habitat, approximately 44 percent are bordered by Federal land, 40 percent by private land, 9 percent by State land, and 7 percent by the Yakama Nation.

(i) Yakima River from the confluence of Ahtanum Creek at rkm 172.1 (rmi 106.9) upstream 155.9 km (96.9 mi) to Easton Diversion Dam is currently occupied FMO habitat (Pearson *et al.* 1998; M. Johnston, Yakama Nation, pers. comm., 2002) that is essential to maintain connectivity between all local populations within the Middle Columbia River unit. The Yakima River from the Easton Diversion Dam at rkm 326.0 (rmi 202.4) upstream 18.8 km (11.7 mi) to Keechelus Dam at rkm 345.3 (rmi 214.4) is currently occupied FMO and spawning and rearing habitat (WDFW 1998, 2002) for the Yakima River local population, as well as a migratory corridor to other local populations within the unit if passage is provided at Keechelus Dam as specified

in the Draft Recovery Plan (USFWS 2002).

(ii) Ahtanum Creek from the confluence with the Yakima River upstream 37.2 km (23.1 mi) to the confluence of the North and South Forks Ahtanum Creek provides currently occupied (WDFW 1998) FMO habitat for the Ahtanum Creek local population. South Fork Ahtanum Creek from the confluence with Ahtanum Creek upstream 23.5 km (14.6 mi) to the headwaters is currently occupied (WDFW 2002), and provides spawning and rearing habitat for the Ahtanum Creek local population. North Fork Ahtanum Creek from the confluence with Ahtanum Creek upstream 33.3 km (20.7 mi) to the headwaters is currently occupied (Dunham and Chandler 2001; WDFW 2002) and provides essential spawning and rearing habitat for the Ahtanum Creek local population. Middle Fork Ahtanum Creek from the confluence with North Fork Ahtanum Creek upstream 15.1 km (9.4 mi) to the headwaters is currently occupied (Dunham and Chandler 2001; WDFW 2002) and provides essential spawning and rearing habitat for the Ahtanum Creek local population. Shellneck Creek from the confluence with North Fork Ahtanum Creek upstream 2.9 km (1.8 mi) to the headwaters is currently occupied (WDFW 2002) and provides spawning and rearing habitat for the Ahtanum Creek local population.

(iii) Naches River from the confluence with the Yakima River upstream 71.8 km (44.6 mi) to the confluence of the Little Naches and Bumping Rivers is currently occupied (WDFW 1998) and provides FMO habitat for the American River, Rattlesnake Creek, and Crow Creek local populations.

(iv) Tieton River from the confluence with the Naches River upstream 34.3 km (21.3 mi) to Tieton Dam is currently occupied (J. Thomas, USFWS, pers. comm., 2002) and provides FMO habitat for local bull trout populations in the Naches River Basin. Bull trout in this reach may be from any one of the three isolated local populations that inhabit Rimrock Reservoir. These fish are often entrained into the Tieton River as water within Rimrock Reservoir is withdrawn (James 2001). This reach will provide a migratory corridor to other local populations if passage is provided at Tieton Dam as specified in the Draft Recovery Plan (USFWS 2002).

(v) Rimrock Reservoir (987 ha (2,438 ac)) and North Fork Tieton River upstream 1.4 km (0.9 mi) to Clear Lake Dam is currently occupied (WDFW 1998), and provides FMO habitat for the South Fork Tieton River and Indian Creek local populations. This reach will



also provide a migratory corridor to other local populations within the Yakima Basin if passage is provided at Tieton Dam and Clear Lake Dam as specified in the Draft Recovery Plan (USFWS 2002).

(vi) South Fork Tieton River from the confluence with Rimrock Reservoir upstream 27.0 km (16.8 mi) to a natural barrier is currently occupied (WDFW 2002) and provides spawning and rearing habitat for the South Fork Tieton River local population. Short and Dirty Creek from the confluence with the South Fork Tieton River upstream approximately 0.2 km (0.1 mi) to a natural barrier is currently occupied (WDFW 1998) rearing habitat for the South Fork Tieton River local population. Spruce Creek from the confluence with the South Fork Tieton River upstream approximately 0.8 km (0.5 mi) to a natural barrier is currently occupied and provides spawning and rearing habitat for the South Fork Tieton River local population (WDFW 1998). Grey Creek from the confluence with the South Fork Tieton River upstream approximately 0.4 km (0.2 mi) to a natural barrier is currently occupied and provides spawning and rearing habitat for the South Fork Tieton River local population (WDFW 1998). Bear Creek from the confluence with the South Fork Tieton River upstream approximately 1.8 km (1.1 mi) to a natural barrier is currently occupied and contains spawning and rearing habitat for the South Fork Tieton River local population (WDFW 2002).

(vii) Indian Creek from the confluence with Rimrock Reservoir upstream 8.1 km (5.0 mi) to a natural barrier is currently occupied and provides spawning and rearing habitat for the Indian Creek local population (WDFW 2002). Three springs which enter Indian Creek at rkm 3.5 (rmi 2.2), rkm 4.3 (rmi 2.7), and rkm 5.2 (rmi 3.2), respectively, also provide spawning and rearing habitat.

(viii) Clear Lake Reservoir (91 ha (225 ac)) may be currently occupied in very small numbers (E. Anderson, WDFW, *in litt.*, 2002) and will provide FMO habitat for the recovered distribution of bull trout (USFWS 2002). The North Fork Tieton River from the confluence with Clear Lake Reservoir upstream 19.1 km (11.9 mi) to a natural barrier is currently occupied (Craig 1997), likely in low numbers, and provides spawning and rearing habitat essential to the recovered distribution of bull trout (USFWS 2002).

(ix) Rattlesnake Creek from the confluence with the Naches River upstream 40.2 km (25.0 mi) to the headwaters is currently occupied (WDFW 2002) and provides essential

FMO and spawning and rearing habitat for the Rattlesnake Creek local population of bull trout. Dog Creek from the confluence with Rattlesnake Creek upstream 1.1 km (0.7 mi) to the confluence with Lookout Creek; Hindoo Creek from the confluence with Dog Creek upstream 1.8 km (1.1 mi) to a natural barrier; and Little Wildcat Creek from the confluence with Rattlesnake Creek upstream 5.8 km (3.6 mi) to the headwaters provide currently occupied (WDFW 2002) spawning and rearing habitat for the Rattlesnake Creek local population.

(x) Little Naches River from the confluence with the Naches River upstream 5.0 km (3.1 mi) to the confluence with Crow Creek is occupied FMO habitat supporting local populations in the Naches River Basin, particularly the Crow Creek local population (WDFW 1998).

(xi) Crow Creek from the confluence with the Little Naches River upstream 15.1 km (9.4 mi) to the confluence with Falls Creek contains occupied spawning and rearing habitat for the Crow Creek local population (WDFW 2002).

(xii) Bumping River from the confluence with the Naches River upstream 24.8 km (15.4 mi) to Bumping Dam contains occupied FMO habitat (Kalin and Ackerman 2002) for the local populations within the Naches River Basin. This reach will also provide a migratory corridor to other local populations within the Yakima River Core Area if passage is provided at Bumping Dam as specified in the Draft Recovery Plan (USFWS 2002). Bumping Reservoir (532 ha (1,314 ac)) is occupied (WDFW 1998) and provides foraging and rearing habitat for the Deep Creek local population.

(xiii) Deep Creek from the confluence with Bumping Reservoir upstream 5.6 km (3.5 mi) to a natural barrier approximately 305 m (1,000 ft) upstream from USFS Road 2008 crossing provides spawning and rearing habitat for the Deep Creek local population (WDFW 2002).

(xiv) American River from the confluence with the Bumping River upstream 27.0 km (16.8 mi) to the confluence with Morris Creek provides spawning and rearing habitat for the American River local population (WDFW 2002). This reach also provides essential FMO habitat for the American River local population and other local populations within the Naches River Basin. Kettle Creek from the confluence with the American River upstream 3.2 km (2.0 mi) to a natural barrier, Union Creek from the confluence with the American River upstream 0.8 km (0.5 mi) to a natural barrier, and Timber

Creek from the confluence with the American River upstream 0.8 km (0.5 mi) to a natural barrier provide spawning and rearing habitat for the American River local population (WDFW 2002).

(xv) Taneum Creek from the confluence with the Yakima River upstream 20.4 km (12.7 mi) to the confluence with the North and South Forks of Taneum Creek is not currently known to be occupied, but will provide FMO habitat for the recovered distribution of bull trout (USFWS 2002). North Fork Taneum Creek from the confluence with Taneum Creek upstream 19.0 km (11.8 mi) to the headwaters, and South Fork Taneum Creek from the confluence with Taneum Creek upstream 13.8 km (8.6 mi) to the headwaters are not currently known to be occupied, but will provide FMO habitat for the recovered distribution of bull trout (USFWS 2002).

(xvi) Teanaway River from the confluence with the Yakima River upstream 19.5 km (12.1 mi) to the confluence of the Middle and West Forks Teanaway River provides FMO habitat for the Teanaway River local populations (Pearson *et al.* 1998). North Fork Teanaway River from the confluence with the Teanaway River upstream 30.7 km (19.1 mi) to the headwaters contains essential FMO and spawning and rearing habitat for the North Fork Teanaway River local population (Pearson *et al.* 1998; WDFW 2002). Jack Creek from the confluence with the North Fork Teanaway River upstream 10.9 km (6.8 mi) to the headwaters; Jungle Creek from the confluence with the North Fork Teanaway River upstream 6.4 km (4.0 mi) to the headwaters; and DeRoux Creek from the confluence with the North Fork Teanaway River upstream 4.7 km (2.9 mi) to the headwaters provide spawning and rearing habitat for the North Fork Teanaway River local population (Pearson *et al.* 1998; WDFW 1998, 2002).

(xvii) Middle Fork Teanaway River from the confluence with the Teanaway River upstream 25.5 km (15.9 mi) to the headwaters is of unknown occupancy but provides suitable FMO and spawning and rearing habitat (E. Anderson, *in litt.*, 2002) necessary for the recovered distribution of bull trout (USFWS 2002).

(xviii) Cle Elum River from the confluence with the Yakima River upstream 13.2 km (8.2 mi) to Cle Elum Dam was historically occupied by bull trout (WDFW 1998), but the extent of current occupancy is unknown. This reach may provide essential FMO habitat for the mainstem Yakima River



population, and will provide a migratory corridor to other local populations upstream if passage is provided at Cle Elum Dam as stipulated in the Draft Recovery Plan (USFWS 2002).

(xix) Cle Elum Reservoir (1,770 ha (4,375 ac)) provides FMO habitat for the Upper Cle Elum River local population (WDFW 1998), and will provide a migratory corridor between other local populations within the Yakima Basin if passage is provided at Cle Elum Dam, as stipulated in the Draft Recovery Plan (USFWS 2002). The Cle Elum River from the confluence with the Cle Elum Reservoir upstream 34.8 km (21.6 mi) to the headwaters provides spawning and rearing habitat for the Cle Elum River local population (P. James, Central Washington University, pers. comm., 2002; WDFW 2002) and may also provide FMO habitat as well. The Cooper River from the confluence with the Cle Elum River upstream 22.7 km (14.1 mi) to the headwaters is currently of unknown occupancy, but would provide both FMO and spawning and rearing habitat for the recovered distribution of the Cle Elum River local population (USFWS 2002). The Wapatus River from the confluence with the Cle Elum River upstream 21.2 km (13.2 mi) to its headwaters provides spawning, rearing, and FMO habitat for the Upper Cle Elum River local population (WDFW 1998; Hisata 1999). Fortune Creek from the confluence with the Cle Elum River upstream 7.2 km (4.5 mi) to the headwaters provides spawning and rearing habitat (T. Mayo, USFS, pers. comm., 2002).

(xx) Kachess River from the confluence with the Yakima River upstream 1.4 km (0.9 mi) to Kachess Dam is of unknown occupancy, but likely provides FMO habitat for the mainstem Yakima River local population and will provide a migratory corridor to other local populations within the Yakima Basin if passage is provided at Kachess Dam (USFWS 2002).

(xxi) Kachess Reservoir (1,734 ha (4,260 ac)) provides FMO habitat for the Box Canyon and Upper Kachess River local populations (WDFW 2002), and will provide a migratory corridor to other local populations within the Yakima River Core Area if passage is provided at Kachess Dam (USFWS 2002). Box Canyon Creek from the confluence with Kachess Reservoir upstream 2.6 km (1.6 mi) to a natural barrier provides spawning and rearing habitat for the Box Canyon Creek local population (WDFW 2002). Kachess River upstream of Kachess Reservoir from the confluence with Kachess

Reservoir upstream 3.2 km (2.0 mi) to a natural barrier provides essential spawning and rearing habitat for the Upper Kachess River local population (Meyer 2002; WDFW 2002). Mineral Creek from the confluence with the Kachess River upstream 1.0 km (0.6 mi) to a natural barrier provides rearing habitat for the Upper Kachess River local population (Meyer 2002; WDFW 2002).

(xxii) Keechelus Reservoir (961 ha (2,374 ac)) provides FMO habitat for the Gold Creek local population, and will provide a migratory corridor to other local populations within the Yakima Basin, if passage is provided at Kachess Dam, as stipulated in the Draft Recovery Plan (USFWS 2002). Gold Creek from Keechelus Reservoir upstream 11.4 km (7.1 mi) to a natural barrier contains essential spawning and rearing habitat for the Gold Creek local population (WDFW 2002).

#### *(25) Unit 21: Upper Columbia River Basin*

The Upper Columbia River Basin includes three CHSUs in central and northern Washington on the east slopes of the Cascade Mountains: (1) Wenatchee River CHSU in Chelan County; (2) Entiat River CHSU in Chelan County; and (3) Methow River CHSU in Okanogan County. A total of 909.7 km (565.4 mi) of streams and 1,010 ha (2,497 ac) of lake surface area are proposed for critical habitat.

Proposed critical habitat includes 364 km (226.1 mi) of stream in 21 stream reaches and one lake (990 ha; 2,445 ac) in the Wenatchee River CHSU, 78.5 km (48.8 mi) of stream in three stream reaches in the Entiat River CHSU, and 486.3 km (302.2 mi) of stream in 26 stream reaches and three lakes that total 22.6 ha (55.9 ac) in the Methow River CHSU.

##### *(i) Wenatchee River CHSU*

This CHSU contains the largest known populations of bull trout in the Upper Columbia River Basin, and includes the mainstem Wenatchee River and tributaries from the Columbia River up to their headwaters. Landownership along the stream reaches proposed for critical habitat is 59 percent Federal land and 41 percent private land. The ownership of the shoreline of the lake proposed for critical habitat is 40 percent Federal land and 60 percent private land. Currently, there are six migratory local populations in the Wenatchee River core area: Peshastin Creek (including Ingalls Creek), Chiwaukum Creek, Chiwawa River (including Chikamin, Rock, Phelps, James, Alpine, and Buck Creeks), Nason

Creek (including Mill Creek), Little Wenatchee River (below the falls), and White River (including Canyon and Panther Creeks). There is also a resident bull trout population in Icicle Creek above the barrier falls.

(A) Wenatchee River from the confluence with the Columbia River upstream 87.2 km (54.2 mi) to Lake Wenatchee provides FMO habitat (Kreiter 2001, 2002) for at least four of the six local migratory bull trout populations upstream. Lake Wenatchee (approximately 990 ha (2,445 ac)) provides FMO habitat (USFWS 2002) for the Chiwawa River, Little Wenatchee River, White River, and likely the Nason Creek local populations.

(B) Peshastin Creek from the confluence with the Wenatchee River upstream 17.4 km (10.8 mi) to the confluence with Negro Creek provides FMO habitat for the Peshastin Creek local population (USFWS 1997a; 1998). Ingalls Creek from its mouth on Peshastin Creek upstream 16.3 km (10.1 mi) to a barrier falls provides essential spawning and rearing habitat for the Peshastin Creek local population (USFWS 1997a).

(C) Icicle Creek from its mouth on the Wenatchee River upstream 8.8 km (5.5 mi) to a potential barrier (complex boulder area) provides essential FMO habitat for migratory bull trout. Spawning and rearing habitat occurs from this point upstream to the falls at rkm 48.3. This area is occupied by a resident population that has been isolated since 1940 by a fish barrier at the Leavenworth National Fish Hatchery, and possibly longer if the boulder area at rkm 8.8 poses an absolute barrier. Jack Creek from its mouth on Icicle Creek at rkm 27.7 (rmi 17.2) upstream 11.4 km (7.1 mi) to a barrier falls provides essential spawning and rearing habitat for the Icicle Creek local population (USFWS 1997a). French Creek from its mouth on Icicle Creek at rkm 34.8 (rmi 21.6) upstream 8.8 km (5.5 mi) to a barrier falls also provides spawning and rearing habitat for bull trout in the Icicle Creek local population.

(D) Chiwaukum Creek from its mouth on the Wenatchee River at rkm 57.8 upstream 10.5 km (6.5 mi) to a barrier falls provides spawning and rearing habitat for bull trout in the Chiwaukum Creek population (USFWS, *in litt.*, 2002).

(E) Chiwawa River from its confluence with the Wenatchee River upstream 53.3 km (33.1 mi) to a barrier falls provides essential FMO habitat up to Grouse Creek at rkm 31.2, and spawning and rearing habitat from that point upstream to rkm 53.3 (Hillman

and Miller 2002). The Chiwawa River local population is the largest population in the Wenatchee Basin. Chikamin Creek from its mouth on the Chiwawa River at rkm 22.2 upstream 13.4 km (8.4 mi) to its headwaters (Hillman and Miller 2002), Rock Creek from its mouth on the Chiwawa River at rkm 34.3 upstream 9.3 km (5.8 mi) to a barrier falls (USFS 2002a), Phelps Creek from its mouth on the Chiwawa River at rkm 48.6 upstream 1.6 km (1.0 mi) to a barrier falls, James Creek from its mouth on the Chiwawa River at rkm 50.2 upstream 0.5 km (0.3 mi) to a gradient barrier (USFWS, *in litt.*, 2001), Alpine Creek from its mouth on the Chiwawa River at rkm 51.0 upstream to a gradient barrier at rkm 0.2 (USFWS, *in litt.*, 2001), and Buck Creek from its mouth on the Chiwawa River at rkm 53.1 upstream 0.6 km (0.4 mi) to a barrier falls (USFWS, *in litt.*, 2001) provide essential spawning and rearing habitat for the Chiwawa River local population.

(F) Nason Creek from its mouth on the Wenatchee River at rkm 86.2 (rmi 53.5) upstream 34.9 km (21.7 mi) to a barrier falls provides FMO habitat in the lower reaches to the confluence with Whitepine Creek at rkm 24.8, and spawning and rearing habitat in the upper reaches (USFWS 2002). Mill Creek from its mouth on Nason Creek at rkm 33.0 (rmi 20.5) upstream to barrier falls at rkm 1.0 provides the only other known spawning and rearing habitat for the Nason Creek local population (USFWS 2002).

(G) Little Wenatchee River from its mouth at the upper end of Lake Wenatchee upstream to a barrier (falls) at rkm 12.6 contains spawning and rearing habitat for the Little Wenatchee local population (J. DeLaVergne, USFWS, pers. comm., 2001). In addition to providing spawning and rearing habitat, it appears to provide a foraging area for bull trout using Lake Wenatchee (USFWS 2002).

(H) White River from its mouth at the upper end of Lake Wenatchee upstream to a barrier falls at rkm 23.0 provides one of only two main spawning areas for the White River local population (USFWS 2002). In addition to providing spawning and rearing habitat, it appears to provide a foraging area for bull trout using Lake Wenatchee (USFWS 2002). Canyon Creek from its mouth on the White River at rkm 15.2 upstream to its headwaters at rkm 6.3 is at least seasonally occupied (J. DeLaVergne, USFWS, pers. comm., 2002), and provides potential spawning and rearing habitat for the recovered distribution of bull trout (USFWS 2002). The Napeequa River from its mouth on the White River at rkm 15.2 (rmi 9.4) upstream 3.5 km

(2.2 mi) to a barrier falls is at least seasonally occupied (J. DeLaVergne, USFWS pers. comm., 2002), may provide spawning and rearing habitat (WDFW 1992), and may also provide valuable foraging habitat due to the presence of spawning sockeye salmon (*Oncorhynchus nerka*) and their progeny. Panther Creek from its mouth on the White River at rkm 21.1 (rmi 13.1) upstream 1.1 km (0.7 mi) to a barrier falls provides occupied spawning and rearing habitat (USFWS 2002) and is probably the main spawning area for the White River local population.

#### (ii) Entiat River CHSU

The Entiat River CHSU includes the Entiat River and its tributaries. The apex of the watershed is at the Cascade crest and water flows east towards the Columbia Plateau. The Entiat River drains into the Columbia River near the city of Entiat. Landownership along the stream reaches proposed for critical habitat within the Entiat River CHSU is approximately 47 percent Federal land and 53 percent private land. There are two local populations in the Entiat CHSU: Entiat River and Mad River (including Tillicum Creek).

(A) Entiat River from confluence with the Columbia River at rkm 778.3 (rmi 483.3) upstream to a barrier falls at rkm 47.0 (rmi 29.2) is occupied and provides FMO habitat (Kreiter 2001, 2002) in the lower reaches (up to about rkm 25.7 (rmi 16.0)), and spawning and rearing habitat from that point upstream to the falls (USFWS 1997b, 1999c, 2000b, 2002).

(B) Mad River from the confluence with the Entiat River upstream 31.5 km (19.6 mi) to a barrier cascades is occupied (WDFW 1992), provides essential FMO habitat in the lower reaches (Kreiter 2001, 2002), and spawning a rearing habitat from that point upstream to the barrier (USFS 2002a). The Mad River provides the majority of the known spawning and rearing habitat in the Entiat CHSU. Tillicum Creek from the confluence with the Mad River upstream 4.7 km (2.9 mi) to a barrier falls contains habitat of unknown occupancy, but that is suspected to support bull trout spawning and rearing (WDFW 1998), and that is necessary to provide for the recovered distribution of bull trout (USFWS 2002).

#### (iii) Methow River CHSU

The Methow River CHSU is located on the eastern slopes of the Cascade Mountains in northern Washington. The Methow River drains into the Columbia River near the town of Pateros. The

CHSU includes the mainstem Methow River and tributaries from the Columbia River up to their headwaters.

Landownership along the stream reaches proposed for critical habitat within this CHSU is 59 percent Federal land and 41 percent private land. The three lakes are entirely surrounded by Federal land. Currently, there are eight local populations of bull trout identified (USFWS 2002) in the Methow CHSU: Gold Creek (including Crater Creek), Twisp River (including Buttermilk, Bridge, Reynolds, and North creeks), Chewuch River (including Lake Creek), Wolf Creek, Early Winters Creek, Upper Methow River, Lost River, and Goat Creek. Adfluvial, fluvial, and resident forms of bull trout are all present.

(A) Methow River from the confluence with the Columbia River at rkm 843.0 (rmi 523.5) upstream to its confluence with the Lost River at rkm 117.5 is occupied and provides essential FMO habitat (Kreiter 2001, 2002) to facilitate bull trout migration between the Columbia River, Methow River and the eight local populations. The Methow River from the confluence with the Lost River upstream to the West Fork of the Methow River at rkm 133.2 (rmi 82.7) provides essential spawning and rearing habitat for the Upper Methow River local population. Robinson Creek from its confluence with the Methow River upstream to its headwaters, and Rattlesnake Creek from its confluence with the Methow River upstream to a barrier falls at rkm 1.9, are of unknown occupancy, but may be accessible in their lower reaches and may provide essential spawning and rearing habitat for the recovered distribution of the Upper Methow River local population (USFWS 2002). Trout Creek from its confluence with the Methow River upstream 11.6 km (7.2 mi) to its headwaters provides occupied spawning and rearing habitat for the Upper Methow River local population (WDFW 1998).

(B) Gold Creek from the confluence with the Methow River upstream 1.8 km (1.1 mi) to the confluence of the North Fork and South Fork of Gold Creek, and the North Fork of Gold Creek from the confluence of the North Fork and South Fork of Gold Creek upstream 8.4 km (5.2 mi) to the confluence with Crater Creek, are all of unknown occupancy by bull trout, but provide essential FMO habitat to connect bull trout that spawn and rear in Crater Creek with foraging habitat in the Methow River, as well as to provide habitat for the recovered distribution of bull trout (USFWS 2002). Crater Creek from the confluence with North Fork Gold Creek upstream 4.7 km (2.9 mi) to a barrier falls is currently

occupied and provides essential spawning and rearing habitat for the Gold Creek local population.

(C) Beaver Creek from confluence with the Methow River at rkm 56.6 (rmi 35.1) upstream to the confluence with Blue Buck Creek provides historical FMO habitat (WDFW 1998) to restore connectivity of isolated resident bull trout populations in Blue Buck Creek with the Methow River and its associated bull trout populations. Addressing human-made barriers and habitat restoration are necessary to allow migratory bull trout to utilize this area to provide for the recovered distribution of bull trout (USFWS 2002). Blue Buck Creek from its confluence with Beaver Creek upstream to a barrier falls at rkm 3.5 is currently occupied by a resident population of bull trout that is thought to have historically included a migratory component (WDFW 1998).

(D) Twisp River from the confluence with the Methow River at rkm 64.7 (rmi 40.2) upstream 47.5 km (29.5 mi) to the confluence of the North Fork and South Fork provides FMO habitat (Kreiter 2001, 2002) from the mouth up to the confluence with Little Bridge Creek at rkm 15.0 and spawning and rearing habitat (USFS 2002b) from that point upstream to the confluence of the North Fork and South Fork. Little Bridge Creek from the confluence with the Twisp River upstream 15.8 km (9.8 mi) to its headwaters provides habitat necessary for the recovered distribution of bull trout (USFWS 2002). Buttermilk Creek from the confluence with the Twisp River upstream 4.0 km (2.5 mi) to the East and West Forks of Buttermilk Creek is at least seasonally occupied (Kreiter 2001, 2002) and provides FMO habitat. The East Fork of Buttermilk Creek from the confluence with Buttermilk Creek upstream 4.8 km (3.0 mi) to a series of falls that form a barrier, and the West Fork of Buttermilk Creek from the confluence with Buttermilk Creek upstream 14.5 km (9.0 mi) to its headwaters, are currently occupied and provide spawning and rearing habitat for the Twisp River local population (J. DeLaVergne, pers. comm., 2001; USFS 2002b). Reynolds Creek from the confluence with the Twisp River at rkm 33.6 upstream 1.1 km (0.7 mi) to a barrier falls, and North Creek from the confluence with the Twisp River at rkm 42.0 upstream 1.3 km (0.8 mi) to a barrier falls are currently occupied and provide essential spawning and rearing habitat for the Twisp River local population (WDFW 1998; USFS 2002b).

(E) Chewuch River from the confluence with the Methow River at rkm 80.6 upstream 52.0 km (32.3 mi) to a barrier falls provides FMO habitat up

to the confluence with Lake Creek at rkm 38.1 and spawning and rearing habitat from that point up to the barrier falls (J. DeLaVergne, pers. comm., 2001). Lake Creek from its confluence with the Chewuch River upstream 12.6 km (7.8 mi) to the upper limits of Black Lake, and including Black Lake, is currently occupied FMO habitat. From Black Lake upstream to a barrier falls (15.8 km (9.8 mi)) above the confluence with the Chewuch River is where spawning and rearing habitat occurs (USFS 1994b, 1995a; 2002b).

(F) Wolf Creek from the confluence with the Methow River at rkm 85.0 (rmi 52.8) upstream 17.1 km (10.6 mi) to a barrier falls provides essential FMO habitat from its mouth up to the wilderness boundary at rkm 7.4 (rmi 4.6), and essential spawning and rearing habitat from that point up to the barrier falls (WDFW 1998; USFS 2002b).

(G) Goat Creek from its confluence with the Methow River at rkm 103.0 upstream 20.4 km (12.7 mi) to its headwaters is currently occupied by both resident and fluvial bull trout (WDFW 1998), provides FMO habitat up to Vanderpool Crossing at rkm 10.9 (rmi 6.8), and spawning and rearing habitat from there up to its headwaters (J. DeLaVergne, pers. comm., 2001; B. Kelly Ringel, USFS, pers. comm., 2002).

(H) Early Winters Creek from the confluence with the Methow River at rkm 108.3 upstream 26.5 km (16.5 mi) to its headwaters contains both FMO habitat and the primary spawning and rearing habitat for this local population. Fluvial bull trout are found downstream of a falls at rkm 12.9, and resident bull trout are found upstream of this point (WDFW 1998; USFS 2002b). Recently, some migratory sized bull trout have also been noted above the falls (J. DeLaVergne, pers. comm., 2001). Cedar Creek from its confluence with Early Winters Creek upstream 4.0 km (2.4 mi) to a barrier falls also provides spawning and rearing habitat for the Early Winters Creek local population (USFS 2002b). Huckleberry Creek from its confluence with Cedar Creek at rkm 3.5 upstream 7.1 km (4.4 mi) to its headwaters contains suitable spawning and rearing habitat necessary to provide for the recovered distribution of bull trout (USFWS 2002).

(I) The Lost River from its confluence with the Methow River upstream to the confluence with Monument Creek at rkm 12.4 provides FMO habitat. The Lost River from approximately rkm 20.4 (rmi 12.7) upstream to rkm 31.7 (rmi 19.7), about 1 km (0.6 mi) below Cougar Lake, contains the primary bull trout spawning and rearing habitat in this basin (WDFW 1998). From Cougar Lake

at rkm 32.7 (rmi 20.3) upstream to Middle Hidden Lake at rkm 36.2 (rmi 22.5) contains FMO and spawning and rearing habitat as well (USFS 2000b; B. Hallock, USFWS, pers. comm., 2002). Female size at maturity has shown the Lost River bull trout population to be composed of resident fish, though there may be some exchange with the Cougar Lake adfluvial stock (WDFW 1998). Both resident populations and adfluvial bull trout from Cougar Lake spawn and rear in the Lost River (WDFW 1998; USFS 2002b). Access to spawning and rearing habitat in this drainage is naturally disrupted by rock slides across the river at rkm 11.6 (rmi 7.2) and rkm 19.3 (rmi 12.0) that both appear to be comparatively recent barriers. The Lost River also flows subsurface for about 6 to 8 km (4 to 5 mi) between Drake Creek (at rkm 18.8 (rmi 11.7)) and Monument Creek (at rkm 12.4 (rmi 7.7)), and for about 1.0 km (0.6 mi) below Cougar Lake (at rkm 32.7 (rmi 20.3)) (Washington State Conservation Commission (WSCC) 2000). Monument Creek from the confluence with the Lost River upstream to its headwaters provides essential spawning and rearing habitat for the Lost River local population. Cougar Lake (approximately 7.6 ha (18.7 ac)), First Hidden Lake (approximately 7.3 ha (18 ac)), and Middle Hidden Lake (approximately 7.7 ha (19.1 ac)) provide FMO and rearing habitat for adfluvial bull trout (WDFW 1998).

(J) The West Fork of the Methow River from the confluence with the Methow River upstream 14.5 km (9.0 mi) to a barrier falls provides the primary spawning and rearing habitat for the Upper Methow River local population (USFS 2002b).

#### *(26) Unit 22: Northeast Washington River Basins*

The Northeast Washington unit includes bull trout above Chief Joseph Dam on the Columbia River. Major tributaries in the unit include the Sanpoil, Spokane, Kettle, Colville, and Pend Oreille Rivers. A total of 373.1 km (231.9 mi) of streams and 1,166 ha (2,880 ac) of lake surface area are proposed as critical habitat within this unit.

##### *(i) Pend Oreille River CHSU*

The Pend Oreille River CHSU is in the northeast corner of Washington State and includes the Pend Oreille River and all tributaries from Boundary Dam upstream to Albeni Falls Dam in Idaho. Only about 4.0 km (2.5 mi) of the Pend Oreille River and tributary waters within this CHSU are located in Idaho (Bonner County), with the remainder of

the CHSU within Pend Oreille County, Washington (Northwest Power Planning Council (NPPC) 2001). The basin encompasses 279,720 ha (691,200 ac) of which approximately 58 percent is public land managed by the USFS (Colville National Forest); 4 percent is State land, 1 percent is Tribal land, and 37 percent private lands. The USFWS also manages a small parcel of land as a unit of the Little Pend Oreille National Wildlife Refuge (Cusick Unit) near Cusick, Washington. Of the approximately 3,553 km (2,208 mi) of tributary streams that occur in this CHSU, 255.5 km (158.8 mi) are proposed for bull trout critical habitat, as well as approximately 117.6 km (73.1 mi) of the Pend Oreille River from Boundary Dam to Albeni Falls Dam, for a total 373.1 km (231.9 mi) of proposed critical habitat for this CHSU.

(A) The Pend Oreille River from Boundary Dam upstream 117.6 km (73.1 mi) to Albeni Falls Dam provides FMO habitat for the recovered distribution of bull trout (USFWS 2002). This reach includes Box Canyon Reservoir with a surface area of 2,983 ha (7,371 ac). Bull trout are at least occasionally present in this reach (Bennett and Liter 1991; M. Liter, IDFG, pers. comm., 2002; C. Donnelly, WDFW, pers. comm., 2002). Boundary Reservoir, a 27.4 km (17.0 mi) impoundment with a surface area of 664 ha (1,640 ac) at full pool elevation is also included in this reach. Bull trout are present in this reach (R2 Resource Consultants, Inc. 1998, citing C. Vail, WDFW, pers. comm., 1996; R2 Resource Consultants 1998, 2000). The mouths of tributaries provided localized zones of well defined cool water refugia in Boundary Reservoir in 1996. Small areas of cold water that provide refugia for bull trout were identified at the mouths of Sullivan, Flume, Slate, and Pee Wee Creeks (R2 Resource Consultants, Inc. 1998).

(B) Slate Creek from its confluence with the Pend Oreille River upstream 16.3 km (10.1 mi) to its headwaters provides spawning and rearing habitat necessary for the recovered distribution of bull trout (USFWS 2002). Reproduction is not currently known to occur within Slate Creek, but several bull trout have been captured at or near the mouth of Slate Creek in recent years (USFS 1999d; Terrapin Environmental 2000), including two migratory-sized individuals caught by angling in the early 1990s, indicating the presence of migratory bull trout using Slate Creek (T. Shuhda, USFS, pers. comm., 2002). Habitat capable of supporting strong and significant populations of native salmonids, particularly bull trout, exists

throughout the Slate Creek watershed (USFS 1999d).

(C) Sullivan Creek from its confluence with the Pend Oreille River upstream 35.3 km (22.0 mi) to its headwaters, provides FMO habitat in the lower reaches and spawning and rearing habitat in the upper reaches necessary for the recovered distribution of bull trout (USFWS 2002). Reproduction is not currently known to occur in Sullivan Creek; only one large adfluvial bull trout has been documented in these waters in recent years (USFS 1999e), and the 5.2 km (3.2 mi) reach from Mill Pond Dam down to the stream's confluence with Boundary Reservoir is believed to contain fewer than 50 adult bull trout (USFS 1999e). Outlet Creek from the confluence with Sullivan Creek upstream 19.3 km (12.0 mi) to the uppermost extent of the waters in Sullivan Lake provides FMO habitat necessary for the recovered distribution of bull trout (USFWS 2002). Establishing fish passage at both Mill Pond Dam and Sullivan Lake Dam is identified as an important bull trout recovery task (USFWS 2002). The entire area 502 ha (1,240 ac) of Sullivan Lake, which is a natural, deep, oligotrophic (deficient in plant nutrients) lake with a maximum depth of 95 m (312 ft) (T. Shuhda, pers. comm., 2002). It contains a strong forage base of kokanee salmon (*O. nerka*) and provides cold water refugia during summer months due to well developed thermal stratification. Harvey Creek from its confluence with Sullivan Lake upstream 18.3 km (11.4 mi) to its headwaters at Bunch Grass Lake provides spawning and rearing habitat necessary for the recovered distribution of bull trout (USFWS 2002). Harvey Creek has permanent water flow and provides good quality habitat for bull trout and other native salmonids (USFS 1999e). This stream has no migration barriers and is a stronghold for native westslope cutthroat trout populations in the Sullivan Creek watershed.

(D) Cedar Creek from its confluence with the Pend Oreille River upstream 16.1 km (10.0 mi) to its headwaters provides spawning and rearing habitat necessary for the recovered distribution of bull trout (USFWS 2002). Additionally, in September 1995, one bull trout measuring 460 mm (18 in) in length was observed above the Ione Municipal Dam during stream surveys conducted by the Kalispel Tribe (J. Maroney, Kalispel Tribe, pers. comm., 2002). There is no information on the origin or life history form of this fish, but the USFS suggests that this bull trout must have been a product of a

spawning population above Ione Municipal Dam (USFS 1999f).

(E) Ruby Creek from its confluence with the Pend Oreille River upstream 21.1 km (13.1 mi) to its headwaters provides FMO habitat in the lower reaches and spawning and rearing habitat necessary for the recovered distribution of bull trout in the upper reaches (USFWS 2002). Bull trout are not currently known to occupy Ruby Creek.

(F) LeClerc Creek from the confluence with the Pend Oreille River upstream 1.9 km (1.2 mi) to the confluence of the West Branch of LeClerc Creek and the East Branch of LeClerc Creek is currently occupied FMO habitat (S. Toth, Plum Creek Timber Company, *in litt.*, 1993), and also provides habitat necessary for the recovered distribution of bull trout (USFWS 2002). The West Branch of LeClerc Creek from the confluence with the Pend Oreille River upstream 24.8 km (15.4 mi) to its headwaters is occupied and provides spawning and rearing habitat for the LeClerc Creek bull trout population complex (T. Shuhda, pers. comm., 2002). East Branch of LeClerc Creek from the confluence with the Pend Oreille River upstream 20.8 km (12.9 mi) to the headwaters is occupied and provides spawning and rearing habitat for the LeClerc Creek population complex. Fourth of July Creek from its confluence with the East Branch of LeClerc Creek upstream 6.1 km (3.8 mi) to the headwaters provides spawning and rearing habitat, as well as habitat necessary to provide for the recovered distribution of bull trout (USFWS 2002). Bull trout have been noted at the mouth of this creek (J. Maroney, Kalispel Tribe, pers. comm., 2001), although spawning activity has not been confirmed. Water temperatures in Fourth of July Creek are cooler than water temperatures in the East Branch of LeClerc Creek, and habitat is suitable for bull trout spawning and rearing (T. Shuhda, pers. comm., 2002).

(G) Mill Creek from its confluence with the Pend Oreille River upstream 2.1 km (1.3 mi) to a barrier falls is occupied by bull trout (J. Maroney, Kalispel Tribe pers. comm., 2001), and also provides spawning and rearing habitat necessary to provide for the recovered distribution of bull trout (USFWS 2002).

(H) Tacoma Creek from its confluence with the Pend Oreille River, the North Fork of the South Fork of Tacoma Creek from the confluence with the South Fork Tacoma Creek, and the South Fork of Tacoma Creek from the confluence with Tacoma Creek upstream a total of 61.7 km (38.3 mi) to their respective

headwaters, provide FMO and spawning and rearing habitat necessary to provide for the recovered distribution of bull trout (USFWS 2002). These creeks are not currently known to be occupied by bull trout, but provide suitable habitat (T. Shuhda, pers. comm., 2002).

(I) Calispell Creek from its confluence with the Pend Oreille River upstream 4.2 km (2.6 mi) to the confluence with Smalle Creek is not currently known to be occupied by bull trout but provides FMO habitat necessary to provide for the recovered distribution of bull trout (USFWS 2002). Smalle Creek from its confluence with Calispell Creek upstream 10.6 km (6.6 mi) to a barrier falls, and East Fork of Smalle Creek from its confluence with Smalle Creek upstream 6.8 km (4.2 mi) to a barrier falls are not currently known to be occupied by bull trout, but provide suitable spawning and rearing habitat necessary to provide for the recovered distribution of bull trout (T. Shuhda, pers. comm., 2002; USFWS 2002).

(J) Indian Creek from its confluence with the Pend Oreille River upstream 8.5 km (5.3 mi) to the headwaters provides spawning and rearing habitat that may be currently utilized, but is also necessary to provide for the recovered distribution of bull trout (USFWS 2002). A gravid (pregnant) female bull trout has been documented in Indian Creek in recent years (J. Maroney, Kalispell Tribe, pers. comm., 2000). Indian Creek has 21.5 square meters per kilometer of suitable bull trout spawning habitat (Kalispel Natural Resource Department and WDFW 1995).

#### (27) Unit 23: Snake River Basin in Washington

The Snake River Washington Unit includes two critical habitat subunits (CHSU) located in southeast Washington: (1) the Tucannon River CHSU located in Columbia and Garfield counties, and (2) the Asotin Creek CHSU within Garfield and Asotin counties. A total of 326 km (203 mi) of stream reaches are proposed as critical habitat within this unit.

##### (i) Tucannon River CHSU

The Tucannon River CHSU encompasses the Tucannon River, Little Tucannon River, and Pataha Creek watersheds and their immediate major and minor tributaries. Landownership in the Tucannon River CHSU is comprised of 71 percent Federal lands; 23 percent State or local government lands, and 6 percent privately owned lands. The Tucannon River CHSU currently contains eight streams supporting local bull trout populations, and three streams identified in the draft

Bull Trout Recovery Plan (USFWS 2002) as essential streams to meet recovery criteria population goals. Proposed critical habitat in the Tucannon River CHSU includes a total of rkm 167.5 (rmi 104.1) in 12 streams within the subunit.

(A) Tucannon River from its confluence with the Snake River upstream 91.9 km (57.1 mi) to the waterfall below Buckley Ridge (approximately 4.8 km (3.0 mi) above the confluence of Bear Creek with the Tucannon River) provides FMO habitat in the lower reaches, and spawning and rearing habitat in the upper reaches for the Tucannon River local population (USFS, unpublished 1992a, unpublished 2001a; Martin *et al.* 1992; Underwood *et al.* 1995; WDFW 1997). The lower Tucannon River is also an important migratory corridor to spawning areas upstream in the watershed (G. Mendel, WDFW, pers. comm., 2002).

(B) Cummings Creek from the confluence with the Tucannon River upstream approximately 17.1 km (10.6 mi) to the point where water from Little Bear Wallow Spring enters Cummings Creek provides spawning and rearing habitat (WDFW 1997; USFS, unpublished 1992b) necessary for the recovered distribution for bull trout (USFWS 2002).

(C) Hixon Creek from the confluence with the Tucannon River upstream approximately 4.0 km (2.5 mi) to its headwaters was historically occupied (M. Schuck, WDFW, pers. comm., 2002), and provides spawning and rearing habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(D) Little Tucannon River from its confluence with the Tucannon River upstream approximately 8.5 km (5.25 mi) to its headwaters has been documented as providing habitat for bull trout (USFS, unpublished 1992c), and provides spawning and rearing habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(E) Panjab Creek from its confluence with the Tucannon River upstream 11.3 km (7 mi) to its headwaters provides spawning and rearing habitat for the Panjab Creek local population (USFS, unpublished 1992d).

(F) Meadow Creek from its confluence with Panjab Creek upstream 10.5 km (6.5 mi) to its headwaters at Godman Spring provides spawning and rearing habitat for the Meadow Creek local population (USFS, unpublished 1992e).

(G) Turkey Creek from its confluence with Panjab Creek upstream 5.2 km (3.25 mi) to its headwaters provides spawning and rearing habitat for the Turkey Creek local population (USFS, unpublished 1992f).

(H) Little Turkey Creek from the confluence with Meadow Creek upstream 5.5 km (3.4 mi) to its headwaters provides spawning and rearing habitat for the Little Turkey Creek local population (USFS, *in litt.*, 2002).

(I) Cold Creek from the confluence with the Tucannon River upstream 3.2 km (2 mi) to a 3 m (10 ft) water fall provides spawning and rearing habitat for the Cold Creek local population (USFS, unpublished 1992h, *in litt.*, 2002).

(J) Sheep Creek from the confluence with the Tucannon River upstream 0.8 km (0.5 mi) to a 6.6 m (22 ft) waterfall provides spawning and rearing habitat for the Sheep Creek local population (USFS, unpublished 1992i, *in litt.*, 2002).

(K) Bear Creek from the confluence with the Tucannon River upstream 4.8 km (3 mi) to a 3 m (10 ft) waterfall provides spawning and rearing habitat for the Bear Creek local population (USFS, *in litt.*, 2002).

##### (ii) Asotin Creek CHSU

Asotin Creek is a tributary to the Snake River located in Asotin and Garfield counties, Washington. Asotin Creek drains a portion of the northern slopes of the Blue Mountains of southeastern Washington State and enters the Snake River upstream of Clarkston, Washington at rkm 233.5 (rmi 145.0). The Asotin Creek watershed landownership is approximately 31 percent Federally owned land, 8 percent State and local government owned land, and 61 percent privately owned land. Bull trout in Asotin Creek are currently known to occur in headwater locations only, and may be primarily resident fish. Historically, bull trout distribution in the Asotin Creek CHSU was thought to be much more extensive and contain both resident and migratory bull trout (WDFW 1997; USFS 1998e). The streams or stream reaches in the Asotin Creek CHSU proposed for designation as critical habitat are those identified by the Recovery Unit Team as containing bull trout populations, or those that may not be known to be currently occupied, but contain necessary constituent elements to support spawning and rearing. The Asotin Creek CHSU currently contains two streams which support local bull trout populations, and eight streams that have potential to support spawning populations and are identified in the draft Snake River Washington Bull Trout Recovery Plan as essential streams to meet recovery criteria goals (USFWS 2002).

(A) Asotin Creek from the confluence with the Snake River upstream 24.0 km

(14.9 mi) to the confluence with the North Fork and the South Fork of Asotin Creek provides FMO habitat (WDFW 1997).

(B) George Creek from the confluence with Asotin Creek upstream 34.6 km (21.5 mi) to its headwaters at Seven Sisters Spring provides spawning and rearing habitat (USFS, unpublished 1993b) that may be currently occupied, and provides habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(C) Wormell Creek from the confluence with George Creek upstream 6.4 km (4.0 mi) to its headwaters provides habitat of unknown occupancy by bull trout, but is necessary for the recovered distribution of bull trout (USFWS 2002).

(D) Hefflefinger Creek from the confluence with George Creek upstream 6.0 km (3.7 mi) to its headwaters provides spawning and rearing habitat that may currently support bull trout (G. Mendel, pers. comm., 2002b), and is necessary for the recovered distribution of bull trout (USFWS 2002).

(E) Coombs Creek from the confluence with George Creek upstream 10.1 km (6.3 mi) to its headwaters at Hostetler Spring provides spawning and rearing habitat of unknown occupancy, but is essential habitat for the recovered distribution of bull trout (USFWS 2002).

(F) Charley Creek from the confluence with Asotin Creek upstream 26.6 km (16.5 mi) was recently noted to be occupied by bull trout (USFS, unpublished 1993b; D. Groat, USFS, pers. comm., 2002e), provides FMO and spawning and rearing habitat, and provides habitat essential for the recovered distribution of bull trout (USFWS 2002).

(G) North Fork of Asotin Creek from the confluence of the North Fork of Asotin Creek and the South Fork of Asotin Creek where the streams combine and form the mainstem of Asotin Creek upstream 28.3 km (17.6 mi) to the headwaters at Dodge Spring, provides spawning and rearing habitat for the North Fork Asotin Creek local population (USFS, unpublished 1992g; WDFW 1997; G. Mendel, pers. comm., 2002c).

(H) South Fork of the North Fork of Asotin Creek from the confluence with the North Fork of Asotin Creek upstream 9.3 km (5.8 mi) to the headwaters at 3 C Spring is an area recently known to be occupied by bull trout (USFS, unpublished 1993d), and provides habitat necessary for the recovered distribution of bull trout (USFWS 2002).

(I) Middle branch of the North Fork of Asotin Creek from the confluence with

the North Fork of Asotin Creek upstream 8.0 km (5.0 mi) to the headwaters provides occupied spawning and rearing habitat for the North Fork Asotin Creek local population (USFS, unpublished 1993d).

(J) Cougar Creek from the confluence with the North Fork of Asotin Creek upstream 5.2 km (3.2 mi) to the headwaters below USFS Road 4027–015 provides spawning and rearing habitat for the Cougar Creek local population (USFS, *in litt.*, 2002).

#### (28) Unit 24: Columbia River

This unit is located in the States of Oregon and Washington and includes Clatsop, Columbia, Multnomah, Hood River, Wasco, Sherman, Gilliam, Morrow, and Umatilla counties in Oregon and Pacific, Wahkiakum, Cowlitz, Clark, Skamania, Klickitat, Benton, Walla Walla, Franklin, Yakima, Grant, Kittitas, Chelan, Douglas, and Okanogan counties in Washington. Landownership adjacent to reaches of the Columbia River proposed for bull trout critical habitat designation are approximately 39 percent Federal and 61 percent non-Federal.

The north shore of the Columbia River between Chief Joseph Dam and the Okanogan River is within the Colville Indian Reservation. Lands along the south shore are owned by private parties and the State of Washington. Lands in the mid-Columbia hydroelectric project reach from Wells Dam to Wanapum Dam are a mixture of private and State-owned lands. Much of the State-owned land is within wildlife areas managed by the Washington Department of Fish and Wildlife. The western shore between Wanapum and Priest Rapids dams is within the Yakima Firing Center Military Reservation. The eastern shore is under private and State (wildlife area) ownership.

A 72.5 km (45 mi) reach of the Columbia River from a point about 6.4 km (4 mi) downstream of Priest Rapids Dam to the head of McNary Reservoir, about 3.2 km (2 mi) upstream from the Richland city limits, is within the Hanford Reach National Monument (Monument). The 78,914-ha (195,000-ac) Monument includes diverse riparian, riverine, and upland habitats, as well as cultural and historic resources. The Monument is under jurisdiction of both the Department of Energy (DOE) and the Service. The DOE administers 12,141 ha (30,000 ac) of the Monument, while the Service's Division of Wildlife Refugees administers 66,773 ha (165,000 ac). The Department of the Interior established a Federal Planning Advisory Committee (Committee) for the Monument in January, 2001. The

Committee is presently working to provide advice to the DOE and the Service on a Monument management plan and Environmental Impact Statement. The management plan is expected to be completed by 2005.

Lands downstream to the mouth of the Columbia River are under a mix of private, State, and Federal ownership. National wildlife refuges are present at several locations along the river from the confluence with the Snake River to the Pacific Ocean. The Columbia Gorge National Scenic Area extends for 133.5 km (83.0 mi) from mouth of the Sandy River at about rkm 196.3 (rm 122.0) east to the confluence of the Deschutes River at about rkm 329.8 (rm 204.8). Management of this area is under jurisdiction of the USFS and Columbia Gorge Commission, a regional commission of local, State, and Federal interests. Management of the Columbia Gorge National Scenic Area is primarily directed toward upland areas adjacent to the Columbia River and not to aquatic habitat of the river itself.

(i) The Columbia River from the Pacific Ocean at rkm 0 (rmi 0) upstream to Chief Joseph Dam at rkm 877.0 (rmi 544.6) provides FMO habitat for tributary populations of bull trout. Critical habitat includes the free flowing reaches of the Columbia River and the reservoirs to the ordinary high water elevations and normal operating pool elevations, respectively.

#### (29) Unit 25: Snake River

The lower Snake River is located within the State of Washington from its mouth to the confluence with the Clearwater River at the cities of Clarkston, Washington and Lewiston, Idaho. The Snake River is within Franklin, Walla Walla, Columbia, Whitman, and Asotin counties in Washington State. The Snake River is the border between Washington and Idaho from Clarkston/Lewiston upstream to the Oregon border at rkm 223.7 (rm 139.0). The Snake River forms the boundary between Idaho and Oregon from that point upstream to the upper limit of this critical habitat unit. This portion of the proposed critical habitat reach of the Snake River is within Nez Perce, Idaho, Adams, and Washington counties in Idaho, and Wallowa, Baker, and Malheur counties in Oregon. Landownership adjacent to reaches of the Snake River proposed for bull trout critical habitat designation are approximately 50 percent Federal and 50 percent non-Federal.

The major features in Hells Canyon Hydroelectric Complex reach of the Snake River are Hells Canyon, Oxbow, and Brownlee dams and their reservoirs.



These projects are owned and operated by the Idaho Power Company to produce electrical power.

Landownership in the major tributary watersheds and along the Snake River is a mixture of Federal (USFS and BLM), State (Idaho and Oregon), and private owners.

Downstream from Hells Canyon Dam to the Oregon-Washington border, the Snake River is designated Wild and Scenic. It is also within the Hells Canyon National Recreation Area (NRA) and the Hells Canyon Wilderness which are administered by the USFS. The Hells Canyon NRA includes about 264,058 ha (652,500 ac) within its boundaries. The Hells Canyon NRA was established preserve the natural beauty, and historical and archaeological values of the Hells Canyon area, and to enhance the recreational and ecologic values and public enjoyment of the area. Management of this area is not directed at protecting bull trout in the Snake River.

Almost all of the lower Snake River corridor is privately owned. The only public lands are Federal lands associated with the lower Snake River dams and reservoirs and isolated parcels owned by the State of Washington.

(i) The mainstem Snake River from the confluence with the Columbia River upstream to the head of Brownlee Reservoir at rkm 552 (rmi 343) provides FMO habitat for tributary populations of bull trout. Proposed critical habitat includes the free flowing reaches of the Snake River and the reservoirs to the ordinary high water elevations and normal operating pool elevations, respectively.

### Effects of Critical Habitat Designation

#### Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of critical habitat. The term "destruction or adverse modification" is defined at 50 CFR 402.02 as meaning: " \* \* \* a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." Individuals, organizations, States, local and Tribal governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on

Federal lands; require a Federal permit, license, or other authorization; or involve Federal funding.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is proposed or designated. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory. Regulations implementing these interagency cooperation provisions of the Act are codified at 50 CFR part 402.

We may issue a formal conference opinion, if requested by a Federal agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat designated. We may adopt the formal conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Through this consultation, we would ensure that the permitted actions do not destroy or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide "reasonable and prudent alternatives" to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the

Director believes would avoid resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project.

Regulations at 50 CFR 402.16 require Federal agencies to reinstate consultation on previously reviewed actions under certain circumstances, including instances where critical habitat is subsequently designated, and the Federal agency has retained discretionary involvement, or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on Federal lands that may affect the bull trout or its critical habitat will require consultation under section 7 of the Act. Activities on private, State, county, or lands under local jurisdictions requiring a permit from a Federal agency, such as a permit from the Corps under section 404 of the Clean Water Act, or some other Federal action, including funding (e.g., Federal Highway Administration (FHA), Federal Aviation Administration (FAA), or Federal Emergency Management Agency (FEMA)), will continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on non-Federal lands that are not Federally funded or permitted, do not require section 7 consultation.

To properly portray the effects of critical habitat designation, we must first compare the requirements pursuant to section 7 of the Act for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 of the Act prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any



proposed or final regulation that designates critical habitat, those activities involving a Federal action that may adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that appreciably reduce the value of critical habitat for the conservation of the bull trout. Within critical habitat, this pertains only to those areas containing the primary constituent elements. We note that such activities may also jeopardize the continued existence of the species.

A number of Federal activities have the potential to destroy or adversely modify critical habitat for the bull trout. These activities may include land and water management actions of Federal agencies (e.g., Corps, BOR, USFS, BLM, Natural Resources Conservation Service, and Bureau of Indian Affairs) and related or similar actions of other Federally regulated projects (e.g., road and bridge construction activities by the FHA; dredge and fill projects, sand and gravel mining, and bank stabilization activities conducted or authorized by the Corps; and, National Pollutant Discharge Elimination System permits authorized by the Environmental Protection Agency (EPA)).

Specifically, activities that may destroy or adversely modify critical habitat are those that alter the primary constituent elements to an extent that the value of critical habitat for both the survival and recovery of the bull trout is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may destroy or adversely modify critical habitat for bull trout include, but are not limited to:

(1) Significant and detrimental altering of the minimum flow or the natural flow regime of any of the proposed stream segments. Possible actions would include groundwater pumping, impoundment, water diversion, and hydropower generation. We note that such flow alterations resulting from actions affecting tributaries of the proposed stream reaches may also destroy or adversely modify critical habitat;

(2) Alterations to the proposed stream segments that could indirectly cause significant and detrimental effects to bull trout habitat. Possible actions include vegetation manipulation, timber harvest, road construction and maintenance, prescribed fire, livestock grazing, off-road vehicle use, powerline or pipeline construction and repair, mining, and urban and suburban development. Riparian vegetation profoundly influences instream habitat conditions by providing shade, organic

matter, root strength, bank stability, and large woody debris inputs to streams. These characteristics influence water temperature, structure and physical attributes (useable habitat space, depth, width, channel roughness, cover complexity), and food supply (Gregory *et al.* 1991; Sullivan *et al.* in Naiman *et al.* 2000). The importance of riparian vegetation and channel bank condition for providing rearing habitat for salmonids in general is well documented (e.g., Bossu 1954 and Hunt 1969, cited in Beschta and Platts 1987; MBTSG 1998);

(3) Significant and detrimental altering of the channel morphology of any of the proposed stream segments. Possible actions would include channelization, impoundment, road and bridge construction, deprivation of substrate source, destruction and alteration of aquatic or riparian vegetation, reduction of available floodplain, removal of gravel or floodplain terrace materials, excessive sedimentation from mining, livestock grazing, road construction, timber harvest, off-road vehicle use, and other watershed and floodplain disturbances. We note that such actions in the upper watershed (beyond the riparian area) may also destroy or adversely modify critical habitat. For example, timber harvest activities and associated road construction in upland areas can lead to changes in channel morphology by altering sediment production, debris loading, and peak flows;

(4) Significant and detrimental alterations to the water chemistry in any of the proposed stream segments. Possible actions would include release of chemical or biological pollutants into the surface water or connected groundwater at a point source or by dispersed release (non-point);

(5) Activities that are likely to result in the introduction, spread, or augmentation of nonnative aquatic species in any of the proposed stream segments. Possible actions would include fish stocking for sport, aesthetics, biological control, or other purposes; use of live bait fish; aquaculture; construction and operation of canals; and interbasin water transfers; and

(6) Activities that are likely to create significant instream barriers to bull trout movement. Possible actions would include water diversions, impoundments, and hydropower generation where effective fish passage facilities are not provided.

If you have questions regarding whether specific activities will likely constitute destruction or adverse modification of critical habitat, contact

the Field Supervisor of the nearest Fish and Wildlife Ecological Services Office. Requests for copies of the regulations on listed wildlife, and inquiries about prohibitions and permits may be addressed to the Division of Endangered Species, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, Portland, OR 97232-4181 (telephone 503/231-6158; facsimile 503/231-6243).

#### **Relationship to Habitat Conservation Plans and Other Planning Efforts**

Section 3(5)(A) of the Act defines critical habitat, in part, as those areas requiring special management considerations or protection. Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. This permit allows a non-Federal landowner to proceed with an activity that is legal in all other respects, but that results in the incidental taking of a listed species. An incidental take permit application must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take. The purpose of the HCP is to describe and ensure that the effects of the permitted action on covered species are adequately minimized and mitigated, and that the action does not appreciably reduce the survival and recovery of the species.

No approved HCPs include bull trout as a covered species within the range of the Klamath River population segment. Within the range of the Columbia River population segment, there are three: the Plum Creek Native Fish HCP, the Plum Creek I-90 HCP, and the WDNR HCP. Based on our evaluation of these HCPs we have concluded, pursuant to section 3(5)(A) of the Act, that areas within these HCPs do not require additional special management considerations or protection, and consequently we have not included areas within them as proposed critical habitat. (See the Managed Lands section, above, for a discussion of the factors considered).

In the event that future HCPs covering the bull trout are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of the bull trout by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP

development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by bull trout. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species in the context of constructing a biologically configured system of interlinked habitat areas.

We will provide technical assistance and work closely with applicants throughout the development of future HCPs to identify lands essential for the long-term conservation of bull trout and appropriate management for those lands. The take minimization and compensation measures provided under these HCPs are expected to protect the essential habitat lands proposed as critical habitat in this rule. Furthermore, we will complete intra-Service consultation on our issuances of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat. If an HCP that addresses the bull trout as a covered species is ultimately approved, we may reassess the critical habitat boundaries in light of the HCP.

#### Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available, and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species.

We will conduct an analysis of the economic impacts of designating these areas as critical habitat prior to making a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will open a public comment period on the draft economic analysis at that time.

#### Public Comments Solicited

We intend that any final action resulting from this proposal to be as accurate and effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including any areas should be excluded under section 4(b)(2) of the Act;

(2) Specific information on the amount and distribution of bull trout habitat; what habitat is essential to the conservation of this species and why; and, in light of our use of the Draft Recovery Plan as the basis for identifying many of the areas we are proposing as critical habitat, whether the areas identified in the Draft Recovery Plan as necessary for the survival and recovery of bull trout are also essential to the conservation of the species, and therefore are appropriately included in our proposed designation of critical habitat.

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat, including, but not limited to, whether areas do or do not meet the definition of critical habitat in section 3(5)(A)(i) of the Act with respect to requiring special management considerations or protection;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities, families, and private landowners;

(5) Economic and other values associated with designating critical habitat for bull trout; and

(6) Whether our approach to critical habitat designation, including, but not limited to, our methods and criteria used to identify critical habitat, could be improved or modified in any way to ensure the use of the best available scientific information or to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

To further a complete understanding of this proposed rule, the draft critical habitat proposal, maps, fact sheets, photographs, and other materials relating to this proposal can be found on the USFWS Pacific Region's bull trout website at <http://species.fws.gov/bulltrout>.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods: (1) You may submit written comments and information to John Young at the address provided in the **ADDRESSES** section above; (2) You may comment via the electronic mail (e-mail) to [R1BullTroutCH@r1.fws.gov](mailto:R1BullTroutCH@r1.fws.gov); and (3) You may hand-deliver comments to our Regional Office (see **ADDRESSES**

section above). Please submit e-mail comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: RIN 1018-AI52" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Regional Office at telephone number 503/872-2766.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

#### Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the public comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

#### Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made at least 15 days prior to the close of the public comment period.

Given the large geographic extent covered by this proposal, we already have scheduled nine public hearings.

Public hearings will be held at:

1. Wenatchee, WA, on January 7, 2003, at the West Coast Wentachee Center Hotel, 201 North Wenatchee Avenue;
2. Polson, MT, on January 7, 2003, at the KwaTaqNuq Resort, 303 U.S. Highway 93;
3. Salmon, ID, on January 7, 2003, at the Salmon Valley Center Meeting Room, 200 Main Street;
4. Spokane, WA, on January 9, 2003, at the West Coast Grand Hotel, 303 West North River Drive;
5. Lewiston, ID, on January 9, 2003, at the Red Lion Hotel, 621 21st Street;
6. Boise, ID, on January 14, 2003, at the AmeriTel Inn/Boise Spectrum, 7499 West Overland Road;
7. Eugene, OR, on January 14, 2003, at the Hilton Eugene and Conference Center, 66 East Sixth Avenue;
8. Pendleton, OR, on January 16, 2003, at the Red Lion Hotel, 304 S.E. Nye Avenue; and
9. Klamath Falls, OR, on January 22, 2003, at the Shilo Inn, 2500 Almond Street.

All of these public hearings will be held from 6 p.m. to 8 p.m., and the Service will be available from 1 to 3 p.m. prior to each hearing to provide information and to answer questions.

Persons needing reasonable accommodations in order to attend and participate in a public hearing should contact John Young at the address or phone number provided in the **ADDRESSES** section above, as soon as possible. In order to allow sufficient time to process requests, please call no later than 1 week before the hearing.

### Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of

Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov)

### Required Determinations

Section 4(b)(2) of the Act requires us to designate critical habitat “\* \* \* on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat.” Following the publication of this proposed critical habitat designation, we will prepare a draft economic analysis to estimate the potential economic effect of the proposed designation. This draft analysis will be made available for public review and comments on it will be accepted. The preparation of this draft economic analysis and the comments we receive about it will assist us in further reviewing the required determinations listed below. We specifically request that the public review and provide comments on each of these required determinations. (See Public Comments Solicited section.)

### Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and was reviewed by the Office of Management and Budget (OMB). As explained above, we are preparing a draft economic analysis of this proposed action. We will use this analysis to meet the requirement of section 4(b)(2) of the Act to determine the economic consequences of designating the specific areas as critical habitat. We also will use it to help determine whether to exclude any area from critical habitat, as provided for under section 4(b)(2), if we determine that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless we determine, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species. This analysis will be available for public comment before finalizing this designation. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers.

### Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

This discussion is based upon the information regarding potential economic impact that is available to us at this time. Due to legally binding dates

for publication of this proposed rule, it has not been possible to conduct an economic assessment of the proposed designation of critical habitat to use as a basis for making this required evaluation under the Regulatory Flexibility Act. This assessment of economic effect is subject to modification prior to final rulemaking based upon development and review of the economic analysis being prepared pursuant to section 4(b)(2) of the Endangered Species Act and Executive Order 12866. The assessment presented here is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect our position on the type of economic analysis required by *New Mexico Cattle Growers Assn. v. U.S. Fish & Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001).

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. Based on current information, the Service is certifying that this proposed rule will not have a significant effect on a substantial number of small entities. The following discussion explains our rationale.

We must determine whether the proposed rulemaking will affect a substantial number of small entities. According to the Small Business Administration, small entities include small organizations, such as independent non-profit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail

and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000.

In determining whether this rule could "significantly affect a substantial number of small entities", we consider whether critical habitat could potentially affect a "substantial number" of small entities in counties supporting critical habitat areas. While SBREFA does not explicitly define "substantial number," the Small Business Administration, as well as other Federal agencies, have interpreted this to represent an impact on 20 percent or greater of the number of small entities in any industry. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Designation of critical habitat is accompanied by legal requirements under the Act only for activities authorized, funded, or carried out by Federal agencies. We note that approximately forty-five percent of the proposed critical habitat for the Klamath River DPS, and approximately forty-two percent of the proposed critical habitat for the Columbia River DPS, is on non-Federal lands. Some activities on these non-Federal lands will not have any Federal involvement and so will not be affected by critical habitat designation. However, there may be indirect effects from the designation. If such effects are identified in the economic analysis or public comments on the proposed determination, we will revisit this conclusion.

In areas occupied by bull trout, Federal agencies funding, permitting, or implementing activities are already required, through consultation with us under section 7 of the Act, to avoid jeopardizing the continued existence of bull trout. If this critical habitat designation is finalized, section 7 further requires Federal agencies to ensure, also through consultation with us, that their activities are not likely to result in the destruction or adverse modification of designated critical habitat. However, in areas where bull trout are present, we do not believe this will result in any additional regulatory burden on Federal agencies or their applicants beyond the duty to avoid jeopardizing the species, because, although adverse modification and jeopardy are two different standards, the substantive outcome of a consultation under each is commonly the same.

Where bull trout are not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act. However, outside the existing developed areas, land use on the majority of the proposed critical habitat is agricultural, such as livestock grazing and farming. Should a Federally funded, permitted, or implemented project be proposed that may affect designated critical habitat that is not occupied by bull trout, we will work with the Federal action agency and any applicant, through section 7 consultation, to identify ways to implement the proposed project while minimizing or avoiding any adverse effect to the species or critical habitat. In our experience, the vast majority of such projects can be successfully implemented, with at most, minor changes that avoid significant economic impacts to project proponents.

Even if the duty to avoid adverse modification does not trigger additional regulatory impacts in areas where these species are present, designation of critical habitat could result in an additional economic burden on small entities due to the requirement to reinstate consultation for ongoing Federal activities. The Columbia River and Klamath River populations of bull trout were Federally listed as threatened in June 1998. In fiscal years 1998 through 2002, we have conducted several hundred informal and approximately 108 formal section 7 consultations with other Federal agencies to ensure that their actions will not jeopardize the continued existence of the bull trout. As a result, based on the information currently available, we do not believe that the requirement to reinstate consultation for ongoing projects with a Federal nexus, as a result of the designation of critical habitat, will not affect a substantial number of small entities. As with other aspects of this assessment, however, we will have an opportunity to confirm or, if necessary, revise this conclusion prior to the final designation of critical habitat based on the results of the economic analysis, public comments, and other information developed in response to this proposed rule.

Within the proposed critical habitat units, the types of Federal actions or authorized activities that we have identified as potential concerns are:

- (1) Regulation of activities affecting waters of the United States by the Corps under section 404 of the Clean Water Act;
- (2) Regulation of water flows, damming, diversion, and channelization

implemented or licensed by Federal agencies;

(3) Regulation of timber harvest, grazing, mining, and recreation by the USFS and BLM;

(4) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities;

(5) Hazard mitigation and post-disaster repairs funded by the FEMA; and

(6) Activities funded by the EPA, U.S. Department of Energy, or any other Federal agency.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude, in a biological opinion issued as part of formal consultation under section 7, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives." Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Second, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience over many years with consultations pursuant to

section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would likely have resulted in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. Under the Act and its implementing regulations at 50 CFR 402.02, these measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. The kinds of actions that may be included if future reasonable and prudent alternatives become necessary include conservation set-asides, management of competing non-native species, restoration of degraded habitat, and regular monitoring. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this proposed critical habitat designation.

In summary, we have considered whether this proposed rule would result in a significant economic effect on a substantial number of small entities. We have preliminarily determined, for the above reasons and based on currently available information, that it is not likely to affect a substantial number of small entities. Federal involvement, and thus section 7 consultations, would be limited to a subset of the area proposed. The most likely Federal involvement could include Corps permits, permits we may issue under section 10(a)(1)(B) of the Act, FHA funding for road improvements, hydropower licenses issued by the Federal Energy Regulatory Commission, and regulation of timber harvest, grazing, mining, and recreation by the USFS and BLM.

#### **Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))**

In the economic analysis, we will determine whether designation of critical habitat would cause: (a) Any effect on the economy of \$100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### **Executive Order 13211**

On May 18, 2001, the President issued an Executive Order on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare

Statements of Energy Effects when undertaking certain actions. This proposed rule is a significant regulatory action under Executive Order 12866.

Currently available information on the potential effects of this proposal on energy supply, distribution, and use is very limited and does not provide a basis for the Service to reach a definitive conclusion regarding such effects at this time. We will conduct an analysis of the potential economic impacts of this proposed critical habitat designation, as required under section 4(b)(2) of the Act. The economic assessment will include consideration of information relevant to effects on energy supply, distribution, and use. We will make the economic analysis available for public review and comment before completing a final designation. We also expect to obtain information on this topic as a result of public comments on the proposed rule. Should such economic analysis, public comments, or other information indicate that this rule will significantly affect energy supply, distribution, and use, we will take any actions that are appropriate.

#### **Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)**

We will use the economic analysis to evaluate consistency with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

#### **Takings**

We will use the economic analysis and comments received on the proposed rule to evaluate whether the proposed rule poses significant takings implications and to evaluate it for consistency with Executive Order 12630, ("Government Actions and Interference with Constitutionally Protected Private Property Rights"). Based on that evaluation, we will take any actions that are appropriate.

#### **Federalism**

In accordance with Executive Order 13132, we have coordinated the development of the scientific basis for the proposal of critical habitat for bull trout with the appropriate State agencies. If the economic analysis, public comments, or other information relative to the evaluation of this proposed rule indicates that there would be significant federalism effects, we will take any actions that are appropriate.

#### **Civil Justice Reform**

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the proposal would not unduly burden the judicial system and

meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Act. The rule uses standard aquatic (stream and lake) descriptions and identifies the primary constituent elements within the designated units to assist Federal agencies and the public in understanding the habitat and conservation needs of the bull trout.

#### **Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)**

This proposed rule would not impose any new requirements for collection of information that require approval by the OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This proposed rule will not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. This rule references permits for HCPs which contain information collection activity. The Fish and Wildlife Service has OMB approval for that collection under OMB Control Number 1018-0094.

#### **National Environmental Policy Act**

We have determined that we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination on October 25, 1983 (48 FR 49244). This proposed designation does not constitute a major Federal action significantly affecting the quality of the human environment.

#### **Government-to-Government Relationship With Tribes**

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we are coordinating with Federally recognized Tribes on a Government-to-Government basis. Further, Secretarial Order 3206, "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act" (1997) provides that critical habitat should not be designated in an area that may impact Tribal trust resources unless it is determined to be essential to the conservation of a listed species. The

Secretarial Order further states that in designating critical habitat, "the Service shall evaluate and document the extent to which the conservation needs of a listed species can be achieved by limiting the designation to other lands."

During our development of this critical habitat proposal for the Columbia River and Klamath River populations of bull trout, we evaluated Tribal lands to determine if they are essential to the conservation of the species. We have proposed critical habitat for portions of Shitike Creek, Jefferson Creek, and the Deschutes, Warm Springs, and Metolius Rivers that are within the Warm Springs Reservation; the Klickitat River and South Fork Ahtanum Creek within the Yakama Reservation; the Umatilla River, Meacham Creek, and Squaw Creek within the Umatilla Reservation; Lake Coeur d'Alene within the Coeur d'Alene Reservation; the Pend Oreille River within the Kalispell Reservation; the Clearwater River, North Fork Clearwater River, Middle Fork Clearwater River, South Fork Clearwater River, Lolo Creek, Clear Creek, and Dworshak Reservoir within the Nez Perce Reservation; portions of Flathead Lake, the lower Flathead River, and the Jocko River watershed on the Flathead Reservation; and portions of the Jocko River watershed, Mission Creek, and Post Creek on the Confederated Salish and Kootenai Tribal Lands on the Flathead Reservation. A total of approximately 1,200 km (750 mi) of stream segments and approximately 70,081 ha (178,070 ac) of lakes and reservoirs on Tribal lands is included in our proposed designation of critical habitat.

Currently, the Yakama Nation, Coeur d'Alene, Kalispell, Nez Perce, Confederated Salish and Kootenai, and Umatilla tribes do not have resource management plans that provide protection or conservation for the bull trout and its habitat. The Confederated Salish and Kootenai Tribes have a resource management plan addressing bull trout conservation that is being applied in the Jocko River watershed. However, as a result of our meetings with the tribes on September 26, 2002, we mutually agreed to include habitat within the Jocko River watershed in this proposed rule for designating critical habitat (Notes of Government-to-Government meeting, September 26, 2002, in our administrative record files).

We met with the Confederated Tribes of the Warm Springs Reservation (CTWSR) in Oregon on August 28, 2002, to discuss the extent to which the waterways of the Reservation provide bull trout habitat that is essential to the

conservation of the species, and the degree to which Tribal management of those waterways and adjacent lands adequately protects those habitats (Notes of Government-to-Government meeting, August 28, 2002, in our administrative record files). As a result of that meeting, we reviewed the existing Integrated Resource Management Plans (CTWSR IRMP I and II) to determine whether the plans provide adequately for the conservation of the species. In conducting this analysis, we considered the level of certainty that the identified management would be implemented, and whether the management measures would be effective in protecting habitat essential to bull trout conservation.

Our analysis determined that management within Warm Springs Tribal "Conditional Use Areas" (CUAs) provides a sufficient level of protection and certainty of implementation such that additional special management considerations or protection is not required. Therefore, on the basis of section 3(5)(A)(i) of the Act, we did not include 63 km (39 mi) of streams within the CUAs as part of our proposed designation of critical habitat. An exception to our general finding regarding CUAs was made with respect to CUAs on the Reservation's southern and southeastern boundaries, where the boundary is defined by the Metolius and Deschutes Rivers. Here, there is uncertainty as to the ability of the Tribal management plans to adequately protect the entire waterway (*i.e.*, the rivers to the bankfull elevation on either shore), because the opposite shore is not part of the Reservation and is not managed as part of a CUA. Therefore, we have included the Metolius and Deschutes Rivers, from bank to bank along the Reservation boundary, as part of our proposed designation of critical habitat. We welcome comments on this issue (*see below*).

With regard to areas outside the CUAs, we found that management regimes for the Warm Springs Reservation lands and waterways that are essential to the conservation of bull trout do require additional special management considerations or protection, and consequently have included such areas in our proposed designation of critical habitat. We recognize that the CTWSR plans have the potential to be adequate if they are further developed to include measures specific to the conservation needs of bull trout. Of particular concern are the grazing management standards in the CTWSR Integrated Resource Management Plan II. The CTWSR IRMP II is an umbrella plan that provides

general guidance. To date, only two of six grazing district plans (the more detailed and landscape-specific guidance documents under the umbrella plan) are nearing completion. The Service will work closely with the CTWSR staff to analyze the ability of any current or draft Tribal management plan to protect essential bull trout habitat. Our goal in doing so will be to limit the final designation of critical habitat for bull trout within the boundaries of the Reservation to the minimum amount of aquatic habitat that is essential to the conservation of the species. We believe this approach to be consistent with our Tribal Trust responsibilities. We welcome comments on this situation (*see below*).

We are committed to maintaining a positive working relationship with all of the Tribes, and will work with them on developing resource management plans for Tribal lands that include conservation measures for bull trout. We were required to prepare this critical habitat proposal based on our analysis of whether habitat within these Tribal reservation lands is essential to the conservation of the species and may require special management considerations or protection. If, prior to issuing a final determination, any Tribes complete management plans that address areas on Tribal lands that are included in this proposed designation of critical habitat, we will consider excluding those areas based on the conservation measures provided for the species.

We invite comments and additional information regarding the management of bull habitat on Tribal lands within the areas encompassed by the Klamath River and Columbia River DPSs, and our proposed designation of critical habitat in relation to such lands (*see Public Comments Solicited section*). This includes, but is not limited to, comments as to whether the areas on Tribal lands that we have proposed for designation should be retained in, or excluded from, the final rule designating critical habitat. We specifically seek comments regarding whether we should retain or exclude, in the final designation of critical habitat, those segments of the Metolius and Deschutes Rivers along the boundary of the CTWSR, where the shores opposite the Reservation are not part of the CTWSR, and there is uncertainty about the ability of the Tribal management plans to protect the entire waterway in those areas.

#### References Cited

A complete list of all references cited in this proposed rule is available on

request from the U.S. Fish and Wildlife Service, Branch of Endangered Species Office, Portland, OR (see **ADDRESSES** section).

#### Authors

The primary authors of this proposed rule are: John Young, Regional Office, Portland, Oregon; John Stephenson, Central Oregon Office, Bend, Oregon; Mike Faler, Idaho Fishery Resource Office, Ahsahka, Idaho; Marilyn Hemker, Kendra Womack and Johnna Roy, Snake River Basin Office, Boise, Idaho; Wade Fredenberg, Creston Fish and Wildlife Center, Kalispell, Montana; Selena Werdon, Nevada State Office, Reno, Nevada; Alan Mauer, Central Oregon Office, Bend, Oregon; Kathy Barry, John Davis, and Steve Wille, Oregon State Office, Portland, Oregon;

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#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

#### PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entry for “Trout, bull” under “FISHES” to read as follows:

#### § 17.11 Endangered and threatened wildlife.

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* FISHES	*	*	*	*	*		*
* Trout, bull .....	* <i>Salvelinus confluentus</i> .	* U.S.A. (AK, Pacific NW into CA, ID, NV, MT), Canada (NW Territories).	* U.S.A, coterminous (lower 48 states).	* T	* 637, 639E, 659, 670	* 17.95(e)	* 17.44(w) 17.44(x)
*	*	*	*	*	*		*

3. Amend § 17.95(e) by adding critical habitat for the bull trout (*Salvelinus confluentus*) in the same alphabetical order as this species occurs in § 17.11(h).

#### § 17.95 Critical habitat—fish and wildlife.

\* \* \* \* \*  
(e) \* \* \*

#### Bull Trout (*Salvelinus confluentus*)

(1) Critical habitat is depicted for Adams, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Clearwater, Custer, Idaho, Kootenai, Lemhi, Latah, Lewis, Nez Perce, Pend Oreille, Shoshone, Valley, and Washington counties, Idaho; Flathead, Lake, Lewis and Clark, Lincoln, Mineral, Missoula, Powell, Ravalli, and Sanders counties, Montana; Baker, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lane, Linn, Malheur, Morrow, Multnomah, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler counties, Oregon; and Asotin, Benton, Chelan, Columbia, Clark, Cowlitz, Douglas, Garfield, Franklin, Kittitas, Klickitat, Okanogan, Pacific, Pend Oreille, Skamania, Wahkiakum, Walla Walla, Whitman,

and Yakima counties, Washington, on the maps and as described below.

(2) Critical habitat includes the stream channels within the proposed stream reaches indicated on the maps below, and includes a lateral extent from the bankfull elevation on one bank to the bankfull elevation on the opposite bank. Bankfull elevation is the level at which water begins to leave the channel and move into the floodplain and is reached at a discharge that generally has a recurrence interval of 1 to 2 years on the annual flood series. If bankfull elevation is not evident on either bank, the ordinary high-water line as defined by the U.S. Army Corps of Engineers (33 CFR 329.11) shall be used to determine the lateral extent of critical habitat. The lateral extent of proposed lakes and reservoirs is defined by the perimeter of the water body as mapped on standard 1:24,000 scale topographic maps.

(3) Within these areas, the primary constituent elements for the bull trout are those habitat components that are essential for the primary biological needs of foraging, reproducing, rearing of young, dispersal, genetic exchange, or sheltering. Existing human-constructed features and structures within the critical habitat boundary, such as

buildings, powerlines, roads, railroads, urban development, and other paved areas will not contain one or more of the primary constituent elements; consequently, Federal actions limited to those areas would not trigger a consultation under section 7 of the Act unless they affect the species and/or primary constituent elements in adjacent critical habitat. The primary constituent elements are:

(i) Permanent water having low levels of contaminants such that normal reproduction, growth and survival are not inhibited;

(ii) Water temperatures ranging from 2 to 15 °C (36 to 59 °F), with adequate thermal refugia available for temperatures at the upper end of this range. Specific temperatures within this range will vary depending on bull trout life-history stage and form, geography, elevation, diurnal and seasonal variation, shade, such as that provided by riparian habitat, and local groundwater influence;

(iii) Complex stream channels with features such as woody debris, side channels, pools, and undercut banks to provide a variety of depths, velocities, and instream structures;



(iv) Substrates of sufficient amount, size, and composition to ensure success of egg and embryo overwinter survival, fry emergence, and young-of-the-year and juvenile survival. A minimal amount of fine substrate less than 0.63 mm (0.25 in) in diameter and minimal substrate embeddness are characteristic of these conditions;

(v) A natural hydrograph, including peak, high, low and base flows within historic ranges or, if regulated, a hydrograph that demonstrates the ability to support bull trout populations;

(vi) Springs, seeps, groundwater sources, and subsurface water

connectivity to contribute to water quality and quantity;

(vii) Migratory corridors with minimal physical, biological or chemical barriers between spawning, rearing, overwintering, and foraging habitats, including intermittent or seasonal barriers induced by high water temperatures or low flows;

(viii) An abundant food base including terrestrial organisms of riparian origin, aquatic macroinvertebrates, and forage fish; and

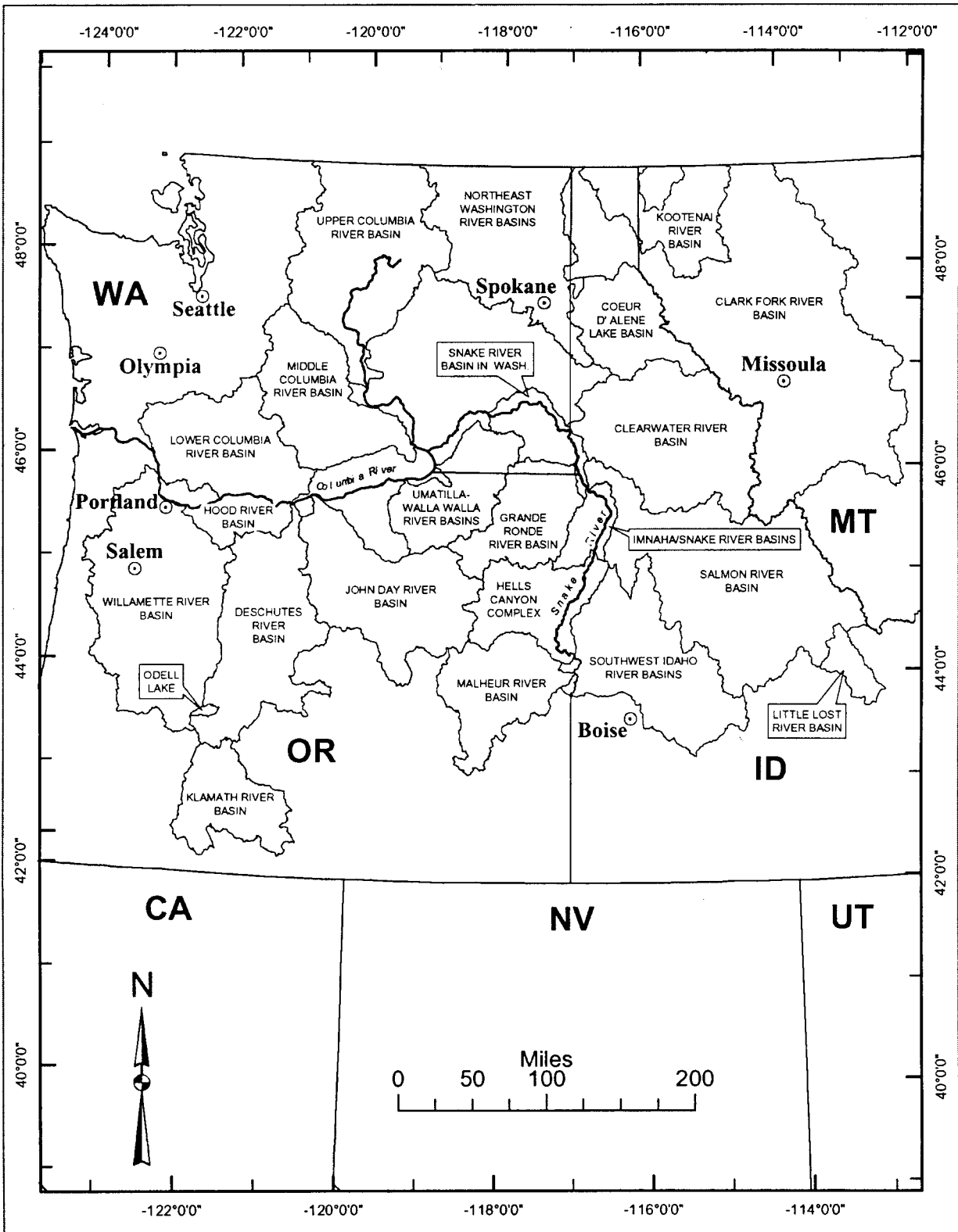
(ix) Few or no predatory, interbreeding, or competitive nonnative species present.

(4) Proposed critical habitat does not include non-Federal lands covered by an incidental take permit for the Columbia River distinct population segment of bull trout issued under section 10(a)(1)(B) of the Act on or before the date of publication of this proposed rule, as long as such permit, or a conservation easement providing comparable conservation benefits, remains legally operative on such lands.

**Note:** Index map follows:

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Index Map -- Units of Proposed Critical Habitat for the Klamath River  
and Columbia River Distinct Population Segments of Bull Trout



(5) Unit 1—Klamath River Basin.

(i) Critical Habitat Subunit—Upper Klamath Lake.

(A) Agency Lake centered at 42.541 degrees latitude, and –121.963 degrees longitude. Crane Creek from a lower point located at 42.628 degrees latitude, and –122.068 degrees longitude to an upper point located at 42.661 degrees latitude, and –122.085 degrees longitude. Crystal Creek from a lower point located at 42.463 degrees latitude, and –122.075 degrees longitude to an upper point located at 42.575 degrees latitude, and –122.081 degrees longitude. Fourmile Creek from a lower point located at 42.539 degrees latitude, and –122.002 degrees longitude to an upper point located at 42.633 degrees latitude, and –122.076 degrees longitude. Fourmile Slough from a lower point located at 42.607 degrees latitude, and –122.046 degrees longitude to an upper point located at 42.535 degrees latitude, and –122.075 degrees longitude. Recreation Creek from a lower point located at 42.477 degrees latitude, and –122.085 degrees longitude to an upper point located at 42.506 degrees latitude, and –122.074 degrees longitude. Sevenmile Canal from a lower point located at 42.582 degrees latitude, and –121.97 degrees longitude to an upper point located at 42.646 degrees latitude, and –122.05 degrees longitude. Sevenmile Creek from a lower point located at 42.646 degrees latitude, and –122.05 degrees longitude to an upper point located at 42.69 degrees latitude, and –122.15 degrees longitude. West Canal from a lower point located at 42.531 degrees latitude, and –122.004 degrees longitude to an upper point located at 42.646 degrees latitude, and –122.05 degrees longitude.

(B) Cherry Creek from a lower point located at 42.631 degrees latitude, and –122.073 degrees longitude to an upper point located at 42.615 degrees latitude, and –122.2 degrees longitude. Rock Creek from a lower point located at 42.554 degrees latitude, and –122.079 degrees longitude to an upper point located at 42.567 degrees latitude, and –122.186 degrees longitude.

(C) Threemile Creek from a lower point located at 42.642 degrees latitude, and –122.065 degrees longitude to an upper point located at 42.64 degrees latitude, and –122.138 degrees longitude.

(D) Annie Creek from a lower point located at 42.722 degrees latitude, and –121.988 degrees longitude to an upper point located at 42.864 degrees latitude, and –122.155 degrees longitude. Crooked Creek from a lower point located at 42.599 degrees latitude, and

–121.945 degrees longitude to an upper point located at 42.687 degrees latitude, and –121.964 degrees longitude. Fort Creek from a lower point located at 42.672 degrees latitude, and –121.979 degrees longitude to an upper point located at 42.695 degrees latitude, and –121.967 degrees longitude. Middle Fork Annie Creek from a lower point located at 42.838 degrees latitude, and –122.127 degrees longitude to an upper point located at 42.886 degrees latitude, and –122.123 degrees longitude. Wood River from a lower point located at 42.577 degrees latitude, and –121.94 degrees longitude to an upper point located at 42.747 degrees latitude, and –121.984 degrees longitude.

(E) Sun Creek from a lower point located at 42.735 degrees latitude, and –122.008 degrees longitude to an upper point located at 42.898 degrees latitude, and –122.096 degrees longitude.

(ii) Critical Habitat Subunit—Sycan Marsh.

(A) Sycan Marsh centered at 42.811 degrees latitude, and –121.113 degrees longitude. Sycan River from a lower point located at 42.78 degrees latitude, and –121.048 degrees longitude to an upper point located at 42.647 degrees latitude, and –120.734 degrees longitude.

(B) Calahan Creek from a lower point located at 42.838 degrees latitude, and –121.266 degrees longitude to an upper point located at 42.924 degrees latitude, and –121.291 degrees longitude. Long Creek from a lower point located at 42.826 degrees latitude, and –121.209 degrees longitude to an upper point located at 42.933 degrees latitude, and –121.338 degrees longitude.

(C) Coyote Creek from a lower point located at 42.854 degrees latitude, and –121.158 degrees longitude to an upper point located at 42.893 degrees latitude, and –121.246 degrees longitude.

(D) Boulder Creek from a lower point located at 42.66 degrees latitude, and –120.783 degrees longitude to an upper point located at 42.674 degrees latitude, and –120.761 degrees longitude. Rifle Creek from a lower point located at 42.694 degrees latitude, and –120.88 degrees longitude to an upper point located at 42.682 degrees latitude, and –120.845 degrees longitude. South Fork Sycan River from a lower point located at 42.663 degrees latitude, and –120.793 degrees longitude to an upper point located at 42.633 degrees latitude, and –120.795 degrees longitude.

(iii) Critical Habitat Subunit—Upper Sprague River.

(A) Boulder Creek from a lower point located at 42.517 degrees latitude, and –120.951 degrees longitude to an upper point located at 42.495 degrees latitude,

and –120.884 degrees longitude. Dixon Creek from a lower point located at 42.518 degrees latitude, and –120.937 degrees longitude to an upper point located at 42.532 degrees latitude, and –120.923 degrees longitude. North Fork Sprague River from a lower point located at 42.497 degrees latitude, and –121.008 degrees longitude to an upper point located at 42.557 degrees latitude, and –120.839 degrees longitude. Unnamed creek—off Dixon Creek from a lower point located at 42.523 degrees latitude, and –120.93 degrees longitude to an upper point located at 42.521 degrees latitude, and –120.921 degrees longitude.

(B) Sheepy Creek from a lower point located at 42.534 degrees latitude, and –120.931 degrees longitude to an upper point located at 42.514 degrees latitude, and –120.89 degrees longitude.

(C) Gearhart Creek from a lower point located at 42.566 degrees latitude, and –120.886 degrees longitude to an upper point located at 42.51 degrees latitude, and –120.871 degrees longitude. Hole Creek from a lower point located at 42.567 degrees latitude, and –120.869 degrees longitude to an upper point located at 42.541 degrees latitude, and –120.86 degrees longitude. Nottin Creek from a lower point located at 42.57 degrees latitude, and –120.87 degrees longitude to an upper point located at 42.532 degrees latitude, and –120.85 degrees longitude. School Creek from a lower point located at 42.604 degrees latitude, and –120.846 degrees longitude to an upper point located at 42.618 degrees latitude, and –120.806 degrees longitude.

(D) Dead Cow Creek from a lower point located at 42.59 degrees latitude, and –120.835 degrees longitude to an upper point located at 42.562 degrees latitude, and –120.779 degrees longitude. Gold Creek from a lower point located at 42.59 degrees latitude, and –120.818 degrees longitude to an upper point located at 42.606 degrees latitude, and –120.794 degrees longitude.

(E) Deming Creek from a lower point located at 42.448 degrees latitude, and –120.953 degrees longitude to an upper point located at 42.486 degrees latitude, and –120.885 degrees longitude.

(F) Brownsworth Creek from a lower point located at 42.392 degrees latitude, and –120.913 degrees longitude to an upper point located at 42.469 degrees latitude, and –120.854 degrees longitude. Camp Creek from a lower point located at 42.445 degrees latitude, and –120.794 degrees longitude to an upper point located at 42.471 degrees latitude, and –120.837 degrees longitude. Corral Creek from a lower

point located at 42.455 degrees latitude, and – 120.782 degrees longitude to an upper point located at 42.481 degrees latitude, and – 120.817 degrees longitude. South Fork Sprague River from a lower point located at 42.392

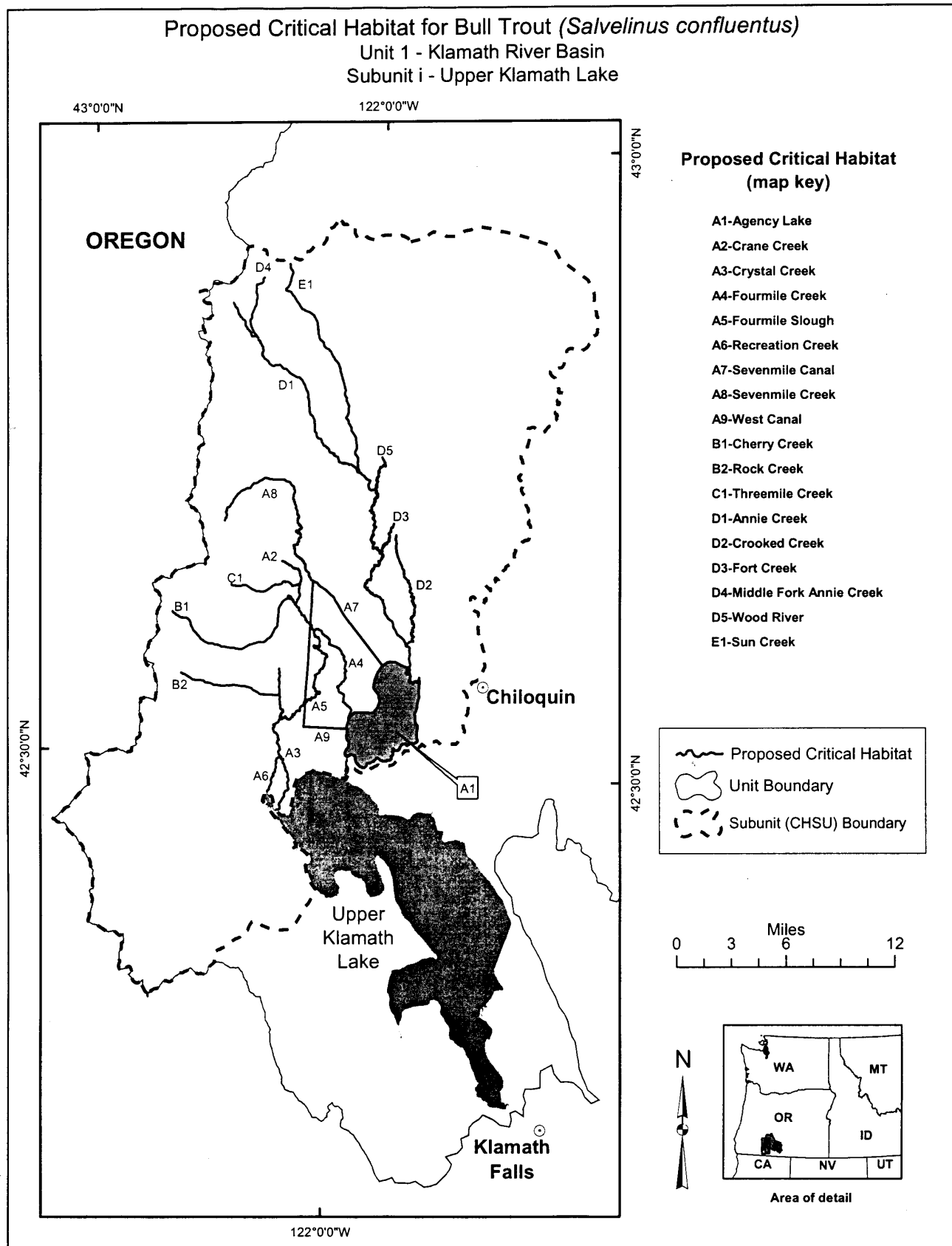
degrees latitude, and – 120.913 degrees longitude to an upper point located at 42.481 degrees latitude, and – 120.784 degrees longitude.

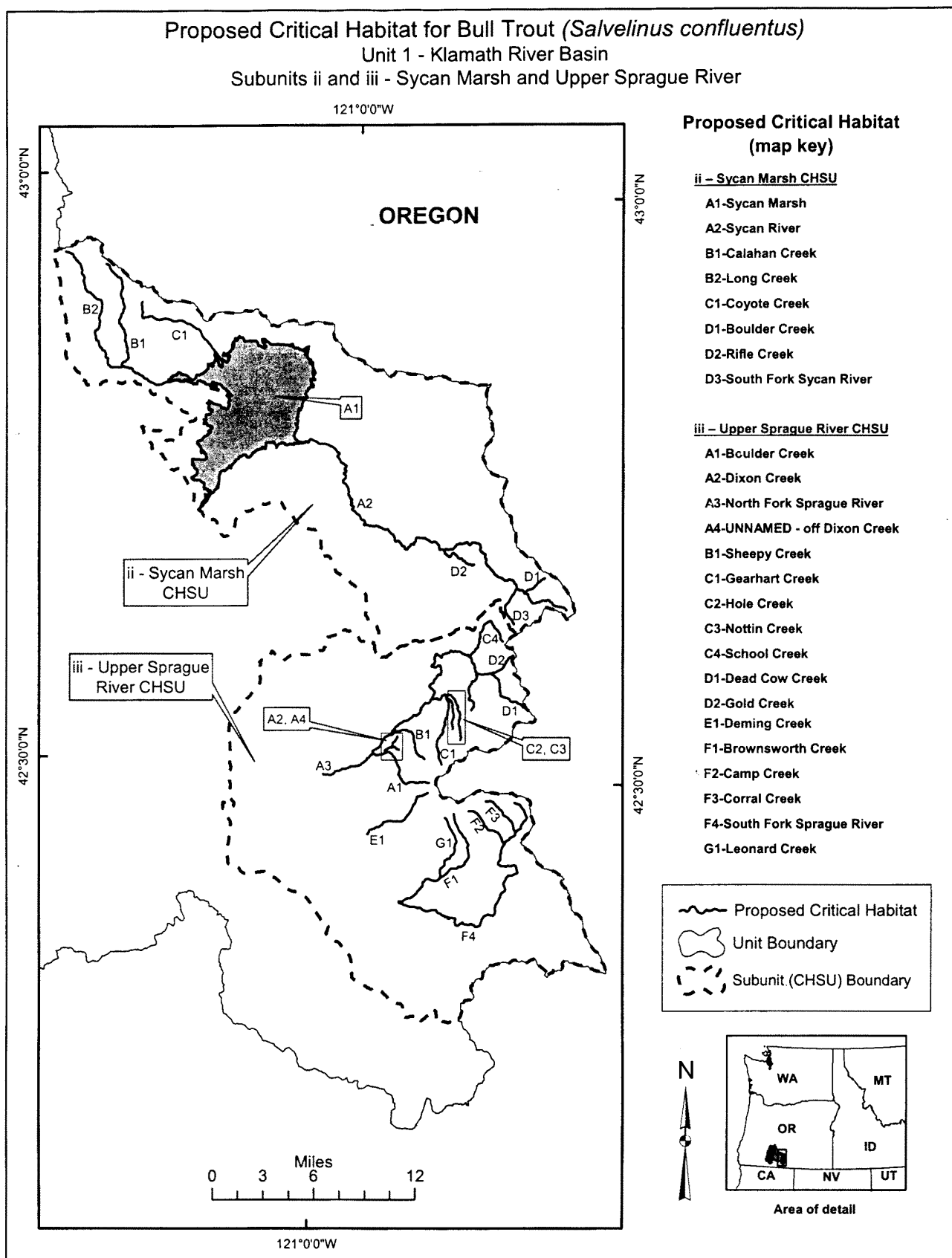
(G) Leonard Creek from a lower point located at 42.413 degrees latitude, and

– 120.867 degrees longitude to an upper point located at 42.465 degrees latitude, and – 120.864 degrees longitude.

**Note:** Maps follow for Unit 1, Subunit i and Unit 1, Subunits ii and iii.

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(6) Unit 2—Clark Fork River Basin.  
(i) Critical Habitat Subunit—Lake Pend Oreille.

(A) Lake Pend Oreille centered at 48.158 degrees latitude, and –116.438 degrees longitude.

(B) East River from a lower point located at 48.353 degrees latitude, and –116.852 degrees longitude to an upper point located at 48.371 degrees latitude, and –116.819 degrees longitude. Middle Fork East River from a lower point located at 48.371 degrees latitude, and –116.819 degrees longitude to an upper point located at 48.362 degrees latitude, and –116.659 degrees longitude. Priest River from a lower point located at 48.178 degrees latitude, and –116.892 degrees longitude to an upper point located at 48.353 degrees latitude, and –116.852 degrees longitude. Tarlac Creek from a lower point located at 48.393 degrees latitude, and –116.737 degrees longitude to an upper point located at 48.349 degrees latitude, and –116.717 degrees longitude. Uleda Creek from a lower point located at 48.388 degrees latitude, and –116.707 degrees longitude to an upper point located at 48.339 degrees latitude, and –116.694 degrees longitude.

(C) Pack River from a lower point located at 48.32 degrees latitude, and –116.382 degrees longitude to an upper point located at 48.613 degrees latitude, and –116.634 degrees longitude.

(D) Grouse Creek from a lower point located at 48.403 degrees latitude, and –116.477 degrees longitude to an upper point located at 48.483 degrees latitude, and –116.228 degrees longitude. North Fork Grouse Creek from a lower point located at 48.452 degrees latitude, and –116.373 degrees longitude to an upper point located at 48.502 degrees latitude, and –116.265 degrees longitude.

(E) Trestle Creek from a lower point located at 48.283 degrees latitude, and –116.352 degrees longitude to an upper point located at 48.352 degrees latitude, and –116.234 degrees longitude.

(F) Gold Creek from a lower point located at 47.971 degrees latitude, and –116.454 degrees longitude to an upper point located at 47.954 degrees latitude, and –116.451 degrees longitude. North Gold Creek from a lower point located at 47.974 degrees latitude, and –116.452 degrees longitude to an upper point located at 47.975 degrees latitude, and –116.426 degrees longitude. West Gold Creek from a lower point located at 47.954 degrees latitude, and –116.451 degrees longitude to an upper point located at 47.944 degrees latitude, and –116.477 degrees longitude.

(G) Dry Gulch from a lower point located at 48.089 degrees latitude, and

–116.357 degrees longitude to an upper point located at 48.087 degrees latitude, and –116.337 degrees longitude.

Granite Creek from a lower point located at 48.087 degrees latitude, and –116.427 degrees longitude to an upper point located at 48.06 degrees latitude, and –116.329 degrees longitude.

Sullivan Springs from a lower point located at 48.088 degrees latitude, and –116.411 degrees longitude to an upper point located at 48.084 degrees latitude, and –116.387 degrees longitude.

(H) Johnson Creek from a lower point located at 48.139 degrees latitude, and –116.229 degrees longitude to an upper point located at 48.131 degrees latitude, and –116.225 degrees longitude.

(I) Clark Fork River from a lower point located at 48.142 degrees latitude, and –116.202 degrees longitude to an upper point located at 48.089 degrees latitude, and –116.048 degrees longitude.

(J) Char Creek from a lower point located at 48.262 degrees latitude, and –116.067 degrees longitude to an upper point located at 48.291 degrees latitude, and –116.073 degrees longitude. East Fork Creek from a lower point located at 48.241 degrees latitude, and –116.112 degrees longitude to an upper point located at 48.262 degrees latitude, and –116.039 degrees longitude.

Lightning Creek from a lower point located at 48.14 degrees latitude, and –116.191 degrees longitude to an upper point located at 48.353 degrees latitude, and –116.175 degrees longitude. Morris Creek from a lower point located at 48.224 degrees latitude, and –116.117 degrees longitude to an upper point located at 48.208 degrees latitude, and –116.08 degrees longitude. Porcupine Creek from a lower point located at 48.267 degrees latitude, and –116.123 degrees longitude to an upper point located at 48.253 degrees latitude, and –116.156 degrees longitude. Rattle Creek from a lower point located at 48.326 degrees latitude, and –116.172 degrees longitude to an upper point located at 48.314 degrees latitude, and –116.1 degrees longitude. Savage Creek from a lower point located at 48.248 degrees latitude, and –116.096 degrees longitude to an upper point located at 48.226 degrees latitude, and –116.028 degrees longitude. Wellington Creek from a lower point located at 48.29 degrees latitude, and –116.162 degrees longitude to an upper point located at 48.295 degrees latitude, and –116.173 degrees longitude.

(K) Dry Creek from a lower point located at 48.094 degrees latitude, and –116.129 degrees longitude to an upper point located at 48.089 degrees latitude, and –116.122 degrees longitude. Twin Creek from a lower point located at

48.089 degrees latitude, and –116.122 degrees longitude to an upper point located at 48.063 degrees latitude, and –116.151 degrees longitude.

(ii) Critical Habitat Subunit—Lower Clark Fork River.

(A) Cabinet Gorge Reservoir centered at 48.036 degrees latitude, and –115.872 degrees longitude.

(B) Bull River from a lower point located at 48.036 degrees latitude, and –115.844 degrees longitude to an upper point located at 48.109 degrees latitude, and –115.782 degrees longitude.

Copper Creek from a lower point located at 48.088 degrees latitude, and –115.773 degrees longitude to an upper point located at 48.078 degrees latitude, and –115.685 degrees longitude. East Fork Bull River from a lower point located at 48.109 degrees latitude, and –115.782 degrees longitude to an upper point located at 48.091 degrees latitude, and –115.645 degrees longitude. South Fork Bull River from a lower point located at 48.109 degrees latitude, and –115.782 degrees longitude to an upper point located at 48.152 degrees latitude, and –115.784 degrees longitude.

(C) Rock Creek from a lower point located at 47.975 degrees latitude, and –115.742 degrees longitude to an upper point located at 48.04 degrees latitude, and –115.676 degrees longitude.

(D) Noxon Rapids Reservoir centered at 47.892 degrees latitude, and –115.705 degrees longitude.

(E) Crow Creek from a lower point located at 47.539 degrees latitude, and –115.557 degrees longitude. Crow Creek, East Fork, from a lower point located at 47.525 degrees latitude, and –115.557 degrees longitude to an upper point located at 47.48 degrees latitude, and –115.542 degrees longitude. Graves Creek from a lower point located at 47.682 degrees latitude, and –115.409 degrees longitude to an upper point located at 47.718 degrees latitude, and –115.38 degrees longitude. Prospect Creek from a lower point located at 47.592 degrees latitude, and –115.358 degrees longitude to an upper point located at 47.569 degrees latitude, and –115.676 degrees longitude. Vermilion River from a lower point located at 47.833 degrees latitude, and –115.535 degrees longitude to an upper point located at 47.869 degrees latitude, and –115.409 degrees longitude.

(F) Clark Fork River from a lower point located at 47.813 degrees latitude, and –115.53 degrees longitude to an upper point located at 47.366 degrees latitude, and –114.776 degrees longitude.

(G) Beatrice Creek from a lower point located at 47.794 degrees latitude, and –115.102 degrees longitude to an upper



point located at 47.765 degrees latitude, and –115.201 degrees longitude. Fishtrap Creek from a lower point located at 47.713 degrees latitude, and –115.058 degrees longitude to an upper point located at 47.817 degrees latitude, and –115.144 degrees longitude. Fishtrap Creek, West Fork from a lower point located at 47.817 degrees latitude, and –115.144 degrees longitude to an upper point located at 47.769 degrees latitude, and –115.243 degrees longitude. Thompson River from a lower point located at 47.576 degrees latitude, and –115.24 degrees longitude to an upper point located at 47.713 degrees latitude, and –115.058 degrees longitude. Thompson River, West Fork, from a lower point located at 47.65 degrees latitude, and –115.173 degrees longitude to an upper point located at 47.708 degrees latitude, and –115.208 degrees longitude.

(H) Flathead River from a lower point located at 47.366 degrees latitude, and –114.776 degrees longitude to an upper point located at 47.354 degrees latitude, and –114.285 degrees longitude.

(I) Jocko River from a lower point located at 47.322 degrees latitude, and –114.304 degrees longitude to an upper point located at 47.201 degrees latitude, and –113.924 degrees longitude. Jocko River, Middle Fork, from a lower point located at 47.201 degrees latitude, and –113.924 degrees longitude to an upper point located at 47.203 degrees latitude, and –113.761 degrees longitude. Jocko River, North Fork, from a lower point located at 47.201 degrees latitude, and –113.924 degrees longitude to an upper point located at 47.226 degrees latitude, and –113.816 degrees longitude. Jocko River, South Fork, from a lower point located at 47.195 degrees latitude, and –113.852 degrees longitude to an upper point located at 47.104 degrees latitude, and –113.766 degrees longitude.

(J) Dry Creek from a lower point located at 47.305 degrees latitude, and –114.064 degrees longitude to an upper point located at 47.259 degrees latitude, and –113.903 degrees longitude. McDonald Lake centered at 47.421 degrees latitude, and –113.977 degrees longitude. Mission Creek from a lower point located at 47.354 degrees latitude, and –114.285 degrees longitude to an upper point located at 47.32 degrees latitude, and –113.988 degrees longitude. Mission Reservoir centered at 47.319 degrees latitude, and –114.007 degrees longitude. Post Creek from a lower point located at 47.36 degrees latitude, and –114.168 degrees longitude to an upper point located at 47.41 degrees latitude, and –113.935 degrees longitude. Saint Mary's Lake

centered at 47.261 degrees latitude, and –113.922 degrees longitude.  
(iii) Critical Habitat Subunit—Middle Clark Fork River.

(A) Clark Fork River from a lower point located at 47.366 degrees latitude, and –114.776 degrees longitude to an upper point located at 46.87 degrees latitude, and –113.889 degrees longitude.

(B) Big Creek from a lower point located at 47.378 degrees latitude, and –115.384 degrees longitude to an upper point located at 47.364 degrees latitude, and –115.444 degrees longitude. Big Creek, East Fork, from a lower point located at 47.362 degrees latitude, and –115.429 degrees longitude to an upper point located at 47.284 degrees latitude, and –115.455 degrees longitude. Big Creek, Middle Fork, from a lower point located at 47.364 degrees latitude, and –115.444 degrees longitude to an upper point located at 47.312 degrees latitude, and –115.492 degrees longitude. Big Creek, West Fork from a lower point located at 47.364 degrees latitude, and –115.444 degrees longitude to an upper point located at 47.35 degrees latitude, and –115.544 degrees longitude. Deer Creek from a lower point located at 47.377 degrees latitude, and –115.359 degrees longitude to an upper point located at 47.326 degrees latitude, and –115.389 degrees longitude. Little Joe Creek from a lower point located at 47.297 degrees latitude, and –115.12 degrees longitude to an upper point located at 47.27 degrees latitude, and –115.14 degrees longitude. Little Joe Creek, North Fork from a lower point located at 47.27 degrees latitude, and –115.14 degrees longitude to an upper point located at 47.186 degrees latitude, and –115.285 degrees longitude. Little Joe Creek, South Fork from a lower point located at 47.27 degrees latitude, and –115.14 degrees longitude to an upper point located at 47.154 degrees latitude, and –115.234 degrees longitude. St. Regis River from a lower point located at 47.297 degrees latitude, and –115.089 degrees longitude to an upper point located at 47.427 degrees latitude, and –115.741 degrees longitude. Twelvemile Creek from a lower point located at 47.35 degrees latitude, and –115.291 degrees longitude to an upper point located at 47.465 degrees latitude, and –115.324 degrees longitude. Ward Creek from a lower point located at 47.312 degrees latitude, and –115.233 degrees longitude to an upper point located at 47.274 degrees latitude, and –115.364 degrees longitude.

(C) Cedar Creek from a lower point located at 47.178 degrees latitude, and –114.862 degrees longitude to an upper

point located at 47.049 degrees latitude, and –115.043 degrees longitude. Lost Creek from a lower point located at 47.128 degrees latitude, and –115.012 degrees longitude to an upper point located at 47.101 degrees latitude, and –115.126 degrees longitude. Oregon Gulch from a lower point located at 47.144 degrees latitude, and –114.967 degrees longitude to an upper point located at 47.128 degrees latitude, and –115.012 degrees longitude.

(D) Trout Creek from a lower point located at 47.143 degrees latitude, and –114.829 degrees longitude to an upper point located at 47.004 degrees latitude, and –114.992 degrees longitude.

(E) Cache Creek from a lower point located at 46.814 degrees latitude, and –114.639 degrees longitude to an upper point located at 46.726 degrees latitude, and –114.758 degrees longitude. Fish Creek from a lower point located at 47.004 degrees latitude, and –114.699 degrees longitude to an upper point located at 46.927 degrees latitude, and –114.696 degrees longitude. Fish Creek, North Fork, from a lower point located at 46.907 degrees latitude, and –114.805 degrees longitude to an upper point located at 46.929 degrees latitude, and –114.944 degrees longitude. Fish Creek, South Fork, from a lower point located at 46.927 degrees latitude, and –114.696 degrees longitude to an upper point located at 46.753 degrees latitude, and –114.571 degrees longitude. Fish Creek, West Fork, from a lower point located at 46.927 degrees latitude, and –114.696 degrees longitude to an upper point located at 46.812 degrees latitude, and –114.89 degrees longitude. Indian Creek from a lower point located at 46.855 degrees latitude, and –114.835 degrees longitude to an upper point located at 46.838 degrees latitude, and –114.834 degrees longitude. Montana Creek from a lower point located at 46.8 degrees latitude, and –114.654 degrees longitude to an upper point located at 46.808 degrees latitude, and –114.762 degrees longitude. Straight Creek from a lower point located at 46.91 degrees latitude, and –114.815 degrees longitude to an upper point located at 46.86 degrees latitude, and –114.937 degrees longitude. Surveyors Creek from a lower point located at 46.846 degrees latitude, and –114.683 degrees longitude to an upper point located at 46.823 degrees latitude, and –114.757 degrees longitude. White Creek from a lower point located at 46.797 degrees latitude, and –114.659 degrees longitude to an upper point located at 46.753 degrees latitude, and –114.614 degrees longitude.

(F) Petty Creek from a lower point located at 46.992 degrees latitude, and

– 114.446 degrees longitude to an upper point located at 46.85 degrees latitude, and – 114.438 degrees longitude.

(G) Rattlesnake Creek from a lower point located at 46.867 degrees latitude, and – 113.985 degrees longitude to an upper point located at 47.098 degrees latitude, and – 113.909 degrees longitude.

(iv) Critical Habitat Subunit—Upper Clark Fork River.

(A) Clark Fork River from a lower point located at 46.87 degrees latitude, and – 113.889 degrees longitude to an upper point located at 46.21 degrees latitude, and – 112.767 degrees longitude.

(B) Harvey Creek from a lower point located at 46.707 degrees latitude, and – 113.372 degrees longitude to an upper point located at 46.581 degrees latitude, and – 113.573 degrees longitude.

(C) Flint Creek from a lower point located at 46.654 degrees latitude, and – 113.145 degrees longitude to an upper point located at 46.478 degrees latitude, and – 113.237 degrees longitude.

(D) Boulder Creek from a lower point located at 46.478 degrees latitude, and – 113.237 degrees longitude to an upper point located at 46.343 degrees latitude, and – 113.076 degrees longitude. South Boulder Creek from a lower point located at 46.441 degrees latitude, and – 113.214 degrees longitude to an upper point located at 46.33 degrees latitude, and – 113.219 degrees longitude.

(E) Little Blackfoot River from a lower point located at 46.515 degrees latitude, and – 112.797 degrees longitude to an upper point located at 46.341 degrees latitude, and – 112.465 degrees longitude.

(F) Racetrack Creek from a lower point located at 46.285 degrees latitude, and – 112.729 degrees longitude to an upper point located at 46.279 degrees latitude, and – 112.949 degrees longitude.

(G) Barker Creek from a lower point located at 46.163 degrees latitude, and – 113.115 degrees longitude to an upper point located at 46.1 degrees latitude, and – 113.115 degrees longitude. Cable Creek from a lower point located at 46.172 degrees latitude, and – 113.18 degrees longitude to an upper point located at 46.196 degrees latitude, and – 113.213 degrees longitude. Foster Creek from a lower point located at 46.164 degrees latitude, and – 113.12 degrees longitude to an upper point located at 46.283 degrees latitude, and – 113.109 degrees longitude. Storm Lake Creek from a lower point located at 46.169 degrees latitude, and – 113.153 degrees longitude to an upper point located at 46.075 degrees latitude, and – 113.267 degrees longitude. Twin

Lakes Creek from a lower point located at 46.169 degrees latitude, and

– 113.152 degrees longitude to an upper point located at 46.056 degrees latitude, and – 113.226 degrees longitude. Warm Springs Creek from a lower point located at 46.21 degrees latitude, and – 112.767 degrees longitude to an upper point located at 46.261 degrees latitude, and – 113.137 degrees longitude.

(v) Critical Habitat Subunit—Priest Lakes and River.

(A) Cedar Creek from a lower point located at 48.88 degrees latitude, and – 116.959 degrees longitude to an upper point located at 48.909 degrees latitude, and – 116.885 degrees longitude. Lime Creek from a lower point located at 48.894 degrees latitude, and – 116.964 degrees longitude to an upper point located at 48.938 degrees latitude, and – 116.929 degrees longitude. Rock Creek from a lower point located at 48.906 degrees latitude, and – 116.97 degrees longitude to an upper point located at 48.954 degrees latitude, and – 116.945 degrees longitude. Upper Priest River from a lower point located at 48.799 degrees latitude, and – 116.911 degrees longitude to an upper point located at 49 degrees latitude, and – 116.936 degrees longitude.

(B) Gold Creek from a lower point located at 48.821 degrees latitude, and – 116.973 degrees longitude to an upper point located at 48.807 degrees latitude, and – 117.112 degrees longitude. Hughes Fork from a lower point located at 48.805 degrees latitude, and – 116.923 degrees longitude to an upper point located at 48.946 degrees latitude, and – 117.023 degrees longitude.

(C) Upper Priest Lake centered at 48.785 degrees latitude, and – 116.888 degrees longitude.

(D) Trapper Creek from a lower point located at 48.796 degrees latitude, and – 116.896 degrees longitude to an upper point located at 48.877 degrees latitude, and – 116.846 degrees longitude.

(E) Priest Lake centered at 48.588 degrees latitude, and – 116.864 degrees longitude. The Thorofare from a lower point located at 48.74 degrees latitude, and – 116.842 degrees longitude to an upper point located at 48.766 degrees latitude, and – 116.864 degrees longitude.

(F) Lion Creek from a lower point located at 48.736 degrees latitude, and – 116.831 degrees longitude to an upper point located at 48.725 degrees latitude, and – 116.672 degrees longitude. South Fork Lion Creek from a lower point located at 48.743 degrees latitude, and – 116.797 degrees longitude to an upper point located at 48.716 degrees latitude, and – 116.718 degrees longitude.

(G) Two Mouth Creek from a lower point located at 48.688 degrees latitude, and – 116.836 degrees longitude to an upper point located at 48.674 degrees latitude, and – 116.676 degrees longitude.

(H) Granite Creek from a lower point located at 48.639 degrees latitude, and – 116.863 degrees longitude to an upper point located at 48.7 degrees latitude, and – 117.029 degrees longitude. North Fork Granite Creek from a lower point located at 48.7 degrees latitude, and – 117.029 degrees longitude to an upper point located at 48.77 degrees latitude, and – 117.142 degrees longitude. South Fork Granite Creek from a lower point located at 48.7 degrees latitude, and – 117.029 degrees longitude to an upper point located at 48.761 degrees latitude, and – 117.147 degrees longitude.

(I) Indian Creek from a lower point located at 48.61 degrees latitude, and – 116.836 degrees longitude to an upper point located at 48.634 degrees latitude, and – 116.789 degrees longitude. North Fork Indian Creek from a lower point located at 48.634 degrees latitude, and – 116.789 degrees longitude to an upper point located at 48.627 degrees latitude, and – 116.691 degrees longitude. South Fork Indian Creek from a lower point located at 48.634 degrees latitude, and – 116.789 degrees longitude to an upper point located at 48.624 degrees latitude, and – 116.716 degrees longitude.

(J) Kalispell Creek from a lower point located at 48.567 degrees latitude, and – 116.921 degrees longitude to an upper point located at 48.626 degrees latitude, and – 117.134 degrees longitude.

(K) Soldier Creek from a lower point located at 48.503 degrees latitude, and – 116.838 degrees longitude to an upper point located at 48.547 degrees latitude, and – 116.698 degrees longitude.

(vi) Critical Habitat Subunit—Flathead Lake, Flathead River and 20 Headwater lakes.

(A) Flathead Lake centered at 47.886 degrees latitude, and – 114.133 degrees longitude.

(B) Flathead River from a lower point located at 48.061 degrees latitude, and – 114.127 degrees longitude to an upper point located at 48.468 degrees latitude, and – 114.069 degrees longitude. Flathead River, Middle Fork from a lower point located at 48.468 degrees latitude, and – 114.069 degrees longitude to an upper point located at 47.996 degrees latitude, and – 113.057 degrees longitude. Flathead River, North Fork from a lower point located at 48.468 degrees latitude, and – 114.069 degrees longitude to an upper point located at 49 degrees latitude, and – 114.474 degrees longitude.

(C) Nyack Creek from a lower point located at 48.452 degrees latitude, and – 113.796 degrees longitude to an upper point located at 48.489 degrees latitude, and – 113.7 degrees longitude.

(D) Park Creek from a lower point located at 48.31 degrees latitude, and – 113.613 degrees longitude to an upper point located at 48.369 degrees latitude, and – 113.49 degrees longitude.

(E) Ole Creek from a lower point located at 48.283 degrees latitude, and – 113.598 degrees longitude to an upper point located at 48.315 degrees latitude, and – 113.463 degrees longitude.

(F) Bear Creek from a lower point located at 48.234 degrees latitude, and – 113.566 degrees longitude to an upper point located at 48.296 degrees latitude, and – 113.384 degrees longitude.

(G) Long Creek from a lower point located at 48.157 degrees latitude, and – 113.529 degrees longitude to an upper point located at 48.094 degrees latitude, and – 113.496 degrees longitude.

(H) Granite Creek from a lower point located at 48.145 degrees latitude, and – 113.376 degrees longitude to an upper point located at 48.226 degrees latitude, and – 113.332 degrees longitude.

(I) Lodgepole Creek from a lower point located at 48.115 degrees latitude, and – 113.264 degrees longitude to an upper point located at 48.123 degrees latitude, and – 113.233 degrees longitude. Morrison Creek from a lower point located at 48.11 degrees latitude, and – 113.31 degrees longitude to an upper point located at 48.22 degrees latitude, and – 113.272 degrees longitude. Puzzle Creek from a lower point located at 48.22 degrees latitude, and – 113.272 degrees longitude to an upper point located at 48.187 degrees latitude, and – 113.247 degrees longitude. Whistler Creek from a lower point located at 48.123 degrees latitude, and – 113.233 degrees longitude to an upper point located at 48.169 degrees latitude, and – 113.226 degrees longitude.

(J) Dolly Varden Creek from a lower point located at 48.066 degrees latitude, and – 113.244 degrees longitude to an upper point located at 47.995 degrees latitude, and – 113.184 degrees longitude. Schafer Creek from a lower point located at 48.071 degrees latitude, and – 113.25 degrees longitude to an upper point located at 48.038 degrees latitude, and – 113.269 degrees longitude.

(K) Clack Creek from a lower point located at 48.012 degrees latitude, and – 113.089 degrees longitude to an upper point located at 47.988 degrees latitude, and – 113.104 degrees longitude.

(L) Basin Creek from a lower point located at 47.966 degrees latitude, and

– 112.995 degrees longitude to an upper point located at 47.935 degrees latitude, and – 113.073 degrees longitude. Bowl Creek from a lower point located at 47.996 degrees latitude, and – 113.057 degrees longitude to an upper point located at 47.966 degrees latitude, and – 112.995 degrees longitude. Scalp Creek from a lower point located at 47.982 degrees latitude, and – 113.041 degrees longitude to an upper point located at 47.957 degrees latitude, and – 113.081 degrees longitude.

(M) Gateway Creek from a lower point located at 48.03 degrees latitude, and – 113.021 degrees longitude to an upper point located at 48.046 degrees latitude, and – 112.958 degrees longitude. Strawberry Creek from a lower point located at 47.996 degrees latitude, and – 113.057 degrees longitude to an upper point located at 48.132 degrees latitude, and – 113.033 degrees longitude. Strawberry Creek, East Fork, from a lower point located at 48.064 degrees latitude, and – 113.03 degrees longitude to an upper point located at 48.089 degrees latitude, and – 112.983 degrees longitude. Trail Creek from a lower point located at 48.014 degrees latitude, and – 113.019 degrees longitude to an upper point located at 48.012 degrees latitude, and – 112.946 degrees longitude.

(N) Big Creek from a lower point located at 48.604 degrees latitude, and – 14.163 degrees longitude to an upper point located at 48.551 degrees latitude, and – 114.335 degrees longitude. Hallowat Creek from a lower point located at 48.575 degrees latitude, and – 114.316 degrees longitude to an upper point located at 48.615 degrees latitude, and – 114.456 degrees longitude. Kletomus Creek from a lower point located at 48.602 degrees latitude, and – 114.413 degrees longitude to an upper point located at 48.644 degrees latitude, and – 114.413 degrees longitude. Skookoleel Creek from a lower point located at 48.571 degrees latitude, and – 114.313 degrees longitude to an upper point located at 48.522 degrees latitude, and – 114.295 degrees longitude. Werner Creek from a lower point located at 48.594 degrees latitude, and – 114.364 degrees longitude to an upper point located at 48.585 degrees latitude, and – 114.413 degrees longitude.

(O) Coal Creek from a lower point located at 48.69 degrees latitude, and – 114.193 degrees longitude to an upper point located at 48.698 degrees latitude, and – 114.494 degrees longitude. Coal Creek, South Fork from a lower point located at 48.68 degrees latitude, and – 114.345 degrees longitude to an upper point located at 48.674 degrees latitude, and – 114.471 degrees longitude.

Cyclone Creek from a lower point located at 48.665 degrees latitude, and – 114.238 degrees longitude to an upper point located at 48.712 degrees latitude, and – 114.391 degrees longitude.

Mathias Creek from a lower point located at 48.669 degrees latitude, and – 114.422 degrees longitude to an upper point located at 48.647 degrees latitude, and – 114.471 degrees longitude.

(P) Cyclone Lake centered at 48.705 degrees latitude, and – 114.3 degrees longitude.

(Q) Red Meadow Creek from a lower point located at 48.805 degrees latitude, and – 114.324 degrees longitude to an upper point located at 48.753 degrees latitude, and – 114.565 degrees longitude.

(R) Shorty Creek from a lower point located at 48.851 degrees latitude, and – 114.593 degrees longitude to an upper point located at 48.818 degrees latitude, and – 114.613 degrees longitude. Shorty Creek, South Fork, from a lower point located at 48.818 degrees latitude, and – 114.613 degrees longitude to an upper point located at 48.804 degrees latitude, and – 114.613 degrees longitude. Whale Creek from a lower point located at 48.849 degrees latitude, and – 114.352 degrees longitude to an upper point located at 48.851 degrees latitude, and – 114.593 degrees longitude.

(S) Trail Creek from a lower point located at 48.924 degrees latitude, and – 114.386 degrees longitude to an upper point located at 48.934 degrees latitude, and – 114.534 degrees longitude.

(T) Swift Creek from a lower point located at 48.481 degrees latitude, and – 114.424 degrees longitude to an upper point located at 48.654 degrees latitude, and – 114.55 degrees longitude. Swift Creek, West Fork from a lower point located at 48.654 degrees latitude, and – 114.55 degrees longitude to an upper point located at 48.723 degrees latitude, and – 114.667 degrees longitude. Whitefish Lake centered at 48.451 degrees latitude, and – 114.381 degrees longitude.

(U) Swift Creek, East Fork from a lower point located at 48.687 degrees latitude, and – 114.582 degrees longitude to an upper point located at 48.756 degrees latitude, and – 114.583 degrees longitude. Upper Whitefish Lake centered at 48.687 degrees latitude, and – 114.578 degrees longitude.

(V) Fitzsimmons Creek from a lower point located at 48.735 degrees latitude, and – 114.733 degrees longitude to an upper point located at 48.752 degrees latitude, and – 114.618 degrees longitude. Stillwater River from a lower point located at 48.604 degrees latitude, and – 114.655 degrees longitude to an upper point located at 48.789 degrees

latitude, and -114.685 degrees longitude. Upper Stillwater Lake centered at 48.588 degrees latitude, and -114.636 degrees longitude.

(W) Lake McDonald centered at 48.584 degrees latitude, and -113.925 degrees longitude. McDonald Creek from a lower point located at 48.632 degrees latitude, and -113.868 degrees longitude to an upper point located at 48.646 degrees latitude, and -113.847 degrees longitude.

(X) Lincoln Creek from a lower point located at 48.592 degrees latitude, and -113.766 degrees longitude to an upper point located at 48.595 degrees latitude, and -113.758 degrees longitude. Lincoln Lake centered at 48.591 degrees latitude, and -113.77 degrees longitude.

(Y) Harrison Creek from a lower point located at 48.529 degrees latitude, and -113.75 degrees longitude to an upper point located at 48.574 degrees latitude, and -113.701 degrees longitude. Harrison Lake centered at 48.516 degrees latitude, and -113.77 degrees longitude.

(Z) Lake Isabel centered at 48.422 degrees latitude, and -113.493 degrees longitude. Park Creek from a lower point located at 48.422 degrees latitude, and -113.496 degrees longitude to an upper point located at 48.421 degrees latitude, and -113.505 degrees longitude.

(AA) Arrow Lake centered at 48.706 degrees latitude, and -113.884 degrees longitude. Camas Creek from a lower point located at 48.69 degrees latitude, and -113.901 degrees longitude to an upper point located at 48.738 degrees latitude, and -113.883 degrees longitude. Trout Lake centered at 48.68 degrees latitude, and -113.909 degrees longitude.

(BB) Logging Creek from a lower point located at 48.784 degrees latitude, and -114.002 degrees longitude to an upper point located at 48.776 degrees latitude, and -114.019 degrees longitude. Logging Lake centered at 48.758 degrees latitude, and -114.074 degrees longitude.

(CC) Cerulean Lake centered at 48.872 degrees latitude, and -114.056 degrees longitude. Lower Quartz Lake centered at 48.807 degrees latitude, and -114.171 degrees longitude. Middle Quartz Lake centered at 48.822 degrees latitude, and -114.141 degrees longitude. Quartz Creek from a lower point located at 48.815 degrees latitude, and -114.165 degrees longitude to an upper point located at 48.839 degrees latitude, and -114.003 degrees longitude. Quartz Lake centered at 48.828 degrees latitude, and -114.095 degrees longitude. Rainbow Creek from a lower point located at 48.855 degrees latitude, and -114.053

degrees longitude to an upper point located at 48.869 degrees latitude, and -114.052 degrees longitude.

(DD) Bowman Creek from a lower point located at 48.906 degrees latitude, and -114.117 degrees longitude to an upper point located at 48.974 degrees latitude, and -114.063 degrees longitude. Bowman Lake centered at 48.872 degrees latitude, and -114.153 degrees longitude.

(EE) Akokala Creek from a lower point located at 48.881 degrees latitude, and -114.198 degrees longitude to an upper point located at 48.892 degrees latitude, and -114.191 degrees longitude. Akokala Lake centered at 48.879 degrees latitude, and -114.198 degrees longitude.

(FF) Kintla Creek from a lower point located at 48.975 degrees latitude, and -114.25 degrees longitude to an upper point located at 48.986 degrees latitude, and -114.063 degrees longitude. Kintla Lake centered at 48.959 degrees latitude, and -114.306 degrees longitude.

(GG) Upper Kintla Lake centered at 48.976 degrees latitude, and -114.175 degrees longitude.

(HH) Frozen Creek from a lower point located at 48.999 degrees latitude, and -114.685 degrees longitude to an upper point located at 48.99 degrees latitude, and -114.737 degrees longitude. Frozen Lake centered at 48.999 degrees latitude, and -114.68 degrees longitude.

(vii) Critical Habitat Subunit—Swan.

(A) Swan Lake centered at 47.945 degrees latitude, and -113.878 degrees longitude. Swan River from a lower point located at 47.928 degrees latitude, and -113.88 degrees longitude to an upper point located at 47.295 degrees latitude, and -113.782 degrees longitude.

(B) Lost Creek from a lower point located at 47.873 degrees latitude, and -113.824 degrees longitude to an upper point located at 47.87 degrees latitude, and -113.848 degrees longitude. Lost Creek, North Fork from a lower point located at 47.873 degrees latitude, and -113.824 degrees longitude to an upper point located at 47.897 degrees latitude, and -113.737 degrees longitude. Lost Creek, South Fork from a lower point located at 47.873 degrees latitude, and -113.824 degrees longitude to an upper point located at 47.869 degrees latitude, and -113.736 degrees longitude.

(C) Soup Creek from a lower point located at 47.837 degrees latitude, and -113.843 degrees longitude to an upper point located at 47.812 degrees latitude, and -113.751 degrees longitude.

(D) Woodward Creek from a lower point located at 47.777 degrees latitude, and -113.845 degrees longitude to an upper point located at 47.767 degrees

latitude, and -113.879 degrees longitude. Woodward Creek, South Fork from a lower point located at 47.754 degrees latitude, and -113.857 degrees longitude to an upper point located at 47.717 degrees latitude, and -113.857 degrees longitude.

(E) Goat Creek from a lower point located at 47.749 degrees latitude, and -113.828 degrees longitude to an upper point located at 47.773 degrees latitude, and -113.694 degrees longitude. Squeezer Creek from a lower point located at 47.75 degrees latitude, and -113.815 degrees longitude to an upper point located at 47.717 degrees latitude, and -113.727 degrees longitude.

(F) Lion Creek from a lower point located at 47.681 degrees latitude, and -113.815 degrees longitude to an upper point located at 47.67 degrees latitude, and -113.71 degrees longitude.

(G) Piper Creek from a lower point located at 47.675 degrees latitude, and -113.815 degrees longitude to an upper point located at 47.637 degrees latitude, and -113.844 degrees longitude.

(H) Jim Creek from a lower point located at 47.648 degrees latitude, and -113.792 degrees longitude to an upper point located at 47.575 degrees latitude, and -113.856 degrees longitude.

(I) Cold Creek from a lower point located at 47.584 degrees latitude, and -113.756 degrees longitude to an upper point located at 47.562 degrees latitude, and -113.81 degrees longitude.

(J) Elk Creek from a lower point located at 47.544 degrees latitude, and -113.741 degrees longitude to an upper point located at 47.48 degrees latitude, and -113.856 degrees longitude.

(K) Crystal Creek from a lower point located at 47.336 degrees latitude, and -113.767 degrees longitude to an upper point located at 47.334 degrees latitude, and -113.775 degrees longitude.

Lindbergh Lake centered at 47.379 degrees latitude, and -113.739 degrees longitude.

(L) Holland Creek from a lower point located at 47.451 degrees latitude, and -113.572 degrees longitude to an upper point located at 47.451 degrees latitude, and -113.58 degrees longitude. Holland Lake centered at 47.448 degrees latitude, and -113.597 degrees longitude.

(viii) Critical Habitat Subunit—Hungry Horse Reservoir.

(A) Flathead River, South Fork from a lower point located at 47.445 degrees latitude, and -113.183 degrees longitude to an upper point located at 48.001 degrees latitude, and -113.571 degrees longitude. Hungry Horse Reservoir centered at 48.2 degrees latitude, and -113.771 degrees longitude.

(B) Wounded Buck Creek from a lower point located at 48.28 degrees

latitude, and -113.935 degrees longitude to an upper point located at 48.235 degrees latitude, and -113.962 degrees longitude.

(C) Wheeler Creek from a lower point located at 48.096 degrees latitude, and -113.729 degrees longitude to an upper point located at 48.067 degrees latitude, and -113.776 degrees longitude.

(D) Quintonkon Creek from a lower point located at 48.026 degrees latitude, and -113.707 degrees longitude to an upper point located at 48.013 degrees latitude, and -113.766 degrees longitude. Sullivan Creek from a lower point located at 48.044 degrees latitude, and -113.689 degrees longitude to an upper point located at 47.879 degrees latitude, and -113.656 degrees longitude.

(E) Spotted Bear River from a lower point located at 47.924 degrees latitude, and -113.526 degrees longitude to an upper point located at 47.878 degrees latitude, and -113.212 degrees longitude.

(F) Bunker Creek from a lower point located at 47.83 degrees latitude, and -113.415 degrees longitude to an upper point located at 47.829 degrees latitude, and -113.581 degrees longitude.

(G) Little Salmon Creek from a lower point located at 47.655 degrees latitude, and -113.36 degrees longitude to an upper point located at 47.588 degrees latitude, and -113.61 degrees longitude.

(H) Big Salmon Creek from a lower point located at 47.586 degrees latitude, and -113.419 degrees longitude to an upper point located at 47.567 degrees latitude, and -113.495 degrees longitude. Big Salmon Lake centered at 47.602 degrees latitude, and -113.386 degrees longitude.

(I) White River from a lower point located at 47.588 degrees latitude, and -113.298 degrees longitude to an upper point located at 47.611 degrees latitude, and -113.203 degrees longitude.

(J) Gordon Creek from a lower point located at 47.479 degrees latitude, and -113.224 degrees longitude to an upper point located at 47.424 degrees latitude, and -113.437 degrees longitude.

(K) Doctor Creek from a lower point located at 47.388 degrees latitude, and -113.482 degrees longitude to an upper point located at 47.429 degrees latitude, and -113.458 degrees longitude. Doctor Lake centered at 47.404 degrees latitude, and -113.48 degrees longitude.

(L) Babcock Creek from a lower point located at 47.366 degrees latitude, and -113.269 degrees longitude to an upper point located at 47.359 degrees latitude, and -113.351 degrees longitude. Youngs Creek from a lower point located at 47.445 degrees latitude, and -113.183 degrees longitude to an upper point

located at 47.282 degrees latitude, and -113.313 degrees longitude.

(M) Danaher Creek from a lower point located at 47.445 degrees latitude, and -113.183 degrees longitude to an upper point located at 47.275 degrees latitude, and -113.014 degrees longitude. Rapid Creek from a lower point located at 47.372 degrees latitude, and -113.054 degrees longitude to an upper point located at 47.382 degrees latitude, and -113.026 degrees longitude.

(ix) Critical Habitat Subunit—Bitterroot.

(A) Bitterroot River from a lower point located at 46.861 degrees latitude, and -114.118 degrees longitude to an upper point located at 45.944 degrees latitude, and -114.128 degrees longitude.

(B) Burnt Fork Creek from a lower point located at 46.542 degrees latitude, and -114.099 degrees longitude to an upper point located at 46.304 degrees latitude, and -113.837 degrees longitude. Gold Creek from a lower point located at 46.398 degrees latitude, and -113.903 degrees longitude to an upper point located at 46.324 degrees latitude, and -113.904 degrees longitude. Little Burnt Fork Creek from a lower point located at 46.322 degrees latitude, and -113.808 degrees longitude to an upper point located at 46.287 degrees latitude, and -113.831 degrees longitude.

(C) Fred Burr Creek from a lower point located at 46.348 degrees latitude, and -114.152 degrees longitude to an upper point located at 46.357 degrees latitude, and -114.315 degrees longitude. Mill Creek from a lower point located at 46.372 degrees latitude, and -114.127 degrees longitude to an upper point located at 46.312 degrees latitude, and -114.286 degrees longitude.

(D) Blodgett Creek from a lower point located at 46.312 degrees latitude, and -114.145 degrees longitude to an upper point located at 46.248 degrees latitude, and -114.453 degrees longitude.

(E) Daly Creek from a lower point located at 46.168 degrees latitude, and -113.911 degrees longitude to an upper point located at 46.25 degrees latitude, and -113.823 degrees longitude. Railroad Creek from a lower point located at 46.158 degrees latitude, and -113.885 degrees longitude to an upper point located at 46.188 degrees latitude, and -113.803 degrees longitude.

Skalkaho Creek from a lower point located at 46.22 degrees latitude, and -114.162 degrees longitude to an upper point located at 46.057 degrees latitude, and -113.807 degrees longitude. Weasel Creek from a lower point located at 46.129 degrees latitude, and -113.854 degrees longitude to an upper point

located at 46.152 degrees latitude, and -113.799 degrees longitude.

(F) Divide Creek from a lower point located at 46.064 degrees latitude, and -113.967 degrees longitude to an upper point located at 46.043 degrees latitude, and -113.818 degrees longitude. Sleeping Child Creek from a lower point located at 46.162 degrees latitude, and -114.159 degrees longitude to an upper point located at 46.033 degrees latitude, and -113.814 degrees longitude. Switchback Creek from a lower point located at 46.059 degrees latitude, and -113.933 degrees longitude to an upper point located at 46.066 degrees latitude, and -113.925 degrees longitude. Two Bear Creek from a lower point located at 46.111 degrees latitude, and -114.009 degrees longitude to an upper point located at 46.094 degrees latitude, and -113.897 degrees longitude.

(G) Beaver Creek from a lower point located at 45.528 degrees latitude, and -114.318 degrees longitude to an upper point located at 45.507 degrees latitude, and -114.393 degrees longitude. Bitterroot River, West Fork from a lower point located at 45.944 degrees latitude, and -114.128 degrees longitude to an upper point located at 45.461 degrees latitude, and -114.341 degrees longitude. Blue Joint Creek from a lower point located at 45.696 degrees latitude, and -114.314 degrees longitude to an upper point located at 45.6 degrees latitude, and -114.518 degrees longitude. Chicken Creek from a lower point located at 45.601 degrees latitude, and -114.313 degrees longitude to an upper point located at 45.621 degrees latitude, and -114.403 degrees longitude. Deer Creek from a lower point located at 45.595 degrees latitude, and -114.321 degrees longitude to an upper point located at 45.57 degrees latitude, and -114.509 degrees longitude. Hughes Creek from a lower point located at 45.621 degrees latitude, and -114.303 degrees longitude to an upper point located at 45.667 degrees latitude, and -114.021 degrees longitude. Johnson Creek from a lower point located at 45.538 degrees latitude, and -114.319 degrees longitude to an upper point located at 45.494 degrees latitude, and -114.268 degrees longitude. Overwhich Creek from a lower point located at 45.675 degrees latitude, and -114.307 degrees longitude to an upper point located at 45.717 degrees latitude, and -114.08 degrees longitude. Painted Rocks Reservoir centered at 45.701 degrees latitude, and -114.293 degrees longitude. Sheep Creek from a lower point located at 45.52 degrees latitude, and -114.319 degrees longitude to an upper point located at 45.482 degrees latitude, and

–114.304 degrees longitude. Slate Creek from a lower point located at 45.698 degrees latitude, and –114.286 degrees longitude to an upper point located at 45.734 degrees latitude, and –114.183 degrees longitude. Straight Creek from a lower point located at 45.677 degrees latitude, and –114.099 degrees longitude to an upper point located at 45.683 degrees latitude, and –114.04 degrees longitude. Woods Creek from a lower point located at 45.564 degrees latitude, and –114.321 degrees longitude to an upper point located at 45.512 degrees latitude, and –114.402 degrees longitude.

(H) Bitterroot River, East Fork from a lower point located at 45.944 degrees latitude, and –114.128 degrees longitude to an upper point located at 45.911 degrees latitude, and –113.595 degrees longitude. Buck Creek from a lower point located at 45.903 degrees latitude, and –113.631 degrees longitude to an upper point located at 45.891 degrees latitude, and –113.633 degrees longitude. Bugle Creek from a lower point located at 45.878 degrees latitude, and –113.786 degrees longitude to an upper point located at 45.835 degrees latitude, and –113.776 degrees longitude. Bush Creek from a lower point located at 45.944 degrees latitude, and –113.733 degrees longitude to an upper point located at 46 degrees latitude, and –113.731 degrees longitude. Lick Creek from a lower point located at 45.938 degrees latitude, and –113.717 degrees longitude to an upper point located at 45.944 degrees latitude, and –113.656 degrees longitude. Martin Creek from a lower point located at 45.93 degrees latitude, and –113.723 degrees longitude to an upper point located at 46.03 degrees latitude, and –113.778 degrees longitude. Meadow Creek from a lower point located at 45.908 degrees latitude, and –113.78 degrees longitude to an upper point located at 45.798 degrees latitude, and –113.782 degrees longitude. Moose Creek from a lower point located at 45.922 degrees latitude, and –113.727 degrees longitude to an upper point located at 46.01 degrees latitude, and –113.708 degrees longitude. Reynolds Creek from a lower point located at 45.947 degrees latitude, and –113.717 degrees longitude to an upper point located at 45.957 degrees latitude, and –113.646 degrees longitude. Sign Creek from a lower point located at 45.97 degrees latitude, and –113.711 degrees longitude to an upper point located at 45.993 degrees latitude, and –113.678 degrees longitude. Swift Creek from a lower point located at 45.891 degrees latitude, and –113.776 degrees longitude

to an upper point located at 45.874 degrees latitude, and –113.753 degrees longitude.

(I) Fault Creek from a lower point located at 45.76 degrees latitude, and –114.108 degrees longitude to an upper point located at 45.724 degrees latitude, and –114.081 degrees longitude. Fire Creek from a lower point located at 45.791 degrees latitude, and –114.065 degrees longitude to an upper point located at 45.788 degrees latitude, and –114.038 degrees longitude. Porcupine Creek from a lower point located at 45.756 degrees latitude, and –114.056 degrees longitude to an upper point located at 45.723 degrees latitude, and –114.003 degrees longitude. Prayer Creek from a lower point located at 45.756 degrees latitude, and –114.055 degrees longitude to an upper point located at 45.726 degrees latitude, and –114.026 degrees longitude. Warm Springs Creek from a lower point located at 45.86 degrees latitude, and –114.025 degrees longitude to an upper point located at 45.726 degrees latitude, and –114.057 degrees longitude. Wiles Creek from a lower point located at 45.766 degrees latitude, and –114.075 degrees longitude to an upper point located at 45.726 degrees latitude, and –114.142 degrees longitude.

(x) Critical Habitat Subunit—Blackfoot River.

(A) Blackfoot River from a lower point located at 46.87 degrees latitude, and –113.889 degrees longitude to an upper point located at 47.011 degrees latitude, and –112.476 degrees longitude.

(B) Daisy Creek from a lower point located at 47.02 degrees latitude, and –113.772 degrees longitude to an upper point located at 47.055 degrees latitude, and –113.822 degrees longitude. Gold Creek from a lower point located at 46.919 degrees latitude, and –113.676 degrees longitude to an upper point located at 47.058 degrees latitude, and –113.743 degrees longitude. Gold Creek, West Fork from a lower point located at 46.996 degrees latitude, and –113.685 degrees longitude to an upper point located at 47.032 degrees latitude, and –113.827 degrees longitude.

(C) Belmont Creek from a lower point located at 46.954 degrees latitude, and –113.569 degrees longitude to an upper point located at 47.061 degrees latitude, and –113.681 degrees longitude.

(D) Cottonwood Creek from a lower point located at 47.025 degrees latitude, and –113.281 degrees longitude to an upper point located at 47.161 degrees latitude, and –113.345 degrees longitude.

(E) Dunham Creek from a lower point located at 47.103 degrees latitude, and –113.155 degrees longitude to an upper

point located at 47.238 degrees latitude, and –113.316 degrees longitude. Lodgepole Creek from a lower point located at 47.183 degrees latitude, and –113.202 degrees longitude to an upper point located at 47.229 degrees latitude, and –113.27 degrees longitude. Monture Creek from a lower point located at 47.02 degrees latitude, and –113.235 degrees longitude to an upper point located at 47.301 degrees latitude, and –113.249 degrees longitude.

(F) Blackfoot River, North Fork from a lower point located at 46.985 degrees latitude, and –113.129 degrees longitude to an upper point located at 47.197 degrees latitude, and –112.886 degrees longitude.

(G) Copper Creek from a lower point located at 47.007 degrees latitude, and –112.555 degrees longitude to an upper point located at 47.06 degrees latitude, and –112.752 degrees longitude. Landers Fork from a lower point located at 46.965 degrees latitude, and –112.562 degrees longitude to an upper point located at 47.099 degrees latitude, and –112.566 degrees longitude.

(xi) Critical Habitat Subunit—Clearwater River and Lake Chain.

(A) Salmon Lake centered at 47.091 degrees latitude, and –113.4 degrees longitude.

(B) Clearwater River from a lower point located at 47.107 degrees latitude, and –113.427 degrees longitude to an upper point located at 47.39 degrees latitude, and –113.561 degrees longitude.

(C) Finley Creek from a lower point located at 47.125 degrees latitude, and –113.56 degrees longitude to an upper point located at 47.12 degrees latitude, and –113.649 degrees longitude. Owl Creek from a lower point located at 47.115 degrees latitude, and –113.441 degrees longitude to an upper point located at 47.115 degrees latitude, and –113.502 degrees longitude. Placid Creek from a lower point located at 47.116 degrees latitude, and –113.541 degrees longitude to an upper point located at 47.187 degrees latitude, and –113.692 degrees longitude. Placid Lake centered at 47.119 degrees latitude, and –113.524 degrees longitude.

(D) Morrell Creek from a lower point located at 47.141 degrees latitude, and –113.46 degrees longitude to an upper point located at 47.342 degrees latitude, and –113.471 degrees longitude.

(E) Deer Creek from a lower point located at 47.208 degrees latitude, and –113.529 degrees longitude to an upper point located at 47.249 degrees latitude, and –113.688 degrees longitude. Seeley Lake centered at 47.194 degrees latitude, and –113.509 degrees longitude.

(F) Clearwater River, West Fork from a lower point located at 47.256 degrees latitude, and – 113.55 degrees longitude to an upper point located at 47.287 degrees latitude, and – 113.744 degrees longitude.

(G) Clearwater Lake centered at 47.386 degrees latitude, and – 113.559 degrees longitude. Lake Alva centered at 47.314 degrees latitude, and – 113.582 degrees longitude. Lake Inez centered at 47.282 degrees latitude, and – 113.566 degrees longitude. Rainy Lake centered at 47.339 degrees latitude, and – 113.594 degrees longitude.

(H) Clearwater River, East Fork from a lower point located at 47.352 degrees latitude, and – 113.581 degrees longitude to an upper point located at 47.343 degrees latitude, and – 113.495 degrees longitude. Colt Creek from a lower point located at 47.328 degrees latitude, and – 113.589 degrees longitude to an upper point located at 47.361 degrees latitude, and – 113.658 degrees longitude.

(xii) Critical Habitat Subunit—Rock Creek.

(A) Rock Creek from a lower point located at 46.725 degrees latitude, and – 113.682 degrees longitude to an upper point located at 46.223 degrees latitude, and – 113.521 degrees longitude.

(B) Gilbert Creek from a lower point located at 46.682 degrees latitude, and – 113.666 degrees longitude to an upper point located at 46.648 degrees latitude, and – 113.818 degrees longitude.

(C) Brewster Creek from a lower point located at 46.612 degrees latitude, and – 113.653 degrees longitude to an upper point located at 46.582 degrees latitude, and – 113.587 degrees longitude.

(D) Ranch Creek from a lower point located at 46.583 degrees latitude, and – 113.678 degrees longitude to an upper point located at 46.468 degrees latitude, and – 113.577 degrees longitude.

(E) Welcome Creek from a lower point located at 46.566 degrees latitude, and – 113.7 degrees longitude to an upper point located at 46.613 degrees latitude, and – 113.806 degrees longitude.

(F) Butte Cabin Creek from a lower point located at 46.52 degrees latitude, and – 113.767 degrees longitude to an upper point located at 46.482 degrees latitude, and – 113.684 degrees longitude.

(G) Wahlquist Creek from a lower point located at 46.501 degrees latitude, and – 113.776 degrees longitude to an upper point located at 46.531 degrees latitude, and – 113.843 degrees longitude.

(H) Cougar Creek from a lower point located at 46.455 degrees latitude, and – 113.768 degrees longitude to an upper point located at 46.47 degrees latitude, and – 113.675 degrees longitude.

(I) Hogback Creek from a lower point located at 46.41 degrees latitude, and – 113.702 degrees longitude to an upper point located at 46.44 degrees latitude, and – 113.625 degrees longitude.

(J) Wyman Creek from a lower point located at 46.396 degrees latitude, and – 113.688 degrees longitude to an upper point located at 46.308 degrees latitude, and – 113.771 degrees longitude.

(K) Stony Creek from a lower point located at 46.348 degrees latitude, and – 113.603 degrees longitude to an upper point located at 46.283 degrees latitude, and – 113.771 degrees longitude.

(L) Beaver Creek from a lower point located at 46.472 degrees latitude, and – 113.493 degrees longitude to an upper point located at 46.468 degrees latitude, and – 113.555 degrees longitude. Upper Willow Creek from a lower point located at 46.331 degrees latitude, and – 113.542 degrees longitude to an upper point located at 46.566 degrees latitude, and – 113.522 degrees longitude.

(M) Bowles Creek from a lower point located at 46.192 degrees latitude, and – 113.747 degrees longitude to an upper point located at 46.207 degrees latitude, and – 113.812 degrees longitude. Rock Creek, North Fork from a lower point located at 46.212 degrees latitude, and – 113.696 degrees longitude to an upper point located at 46.244 degrees latitude, and – 113.772 degrees longitude. Rock Creek, West Fork from a lower point located at 46.223 degrees latitude, and – 113.521 degrees longitude to an upper point located at 46.144 degrees latitude, and – 113.721 degrees longitude. Sand Basin Creek from a lower point located at 46.197 degrees latitude, and – 113.703 degrees longitude to an upper point located at 46.151 degrees latitude, and – 113.712 degrees longitude.

(N) Moose Meadow Creek from a lower point located at 46.139 degrees latitude, and – 113.591 degrees longitude to an upper point located at

46.078 degrees latitude, and – 113.635 degrees longitude. Rock Creek, Ross Fork from a lower point located at 46.224 degrees latitude, and – 113.525 degrees longitude to an upper point located at 46.034 degrees latitude, and – 113.779 degrees longitude. Rock Creek, Ross Fork, South Fork from a lower point located at 46.113 degrees latitude, and – 113.66 degrees longitude to an upper point located at 46.038 degrees latitude, and – 113.698 degrees longitude.

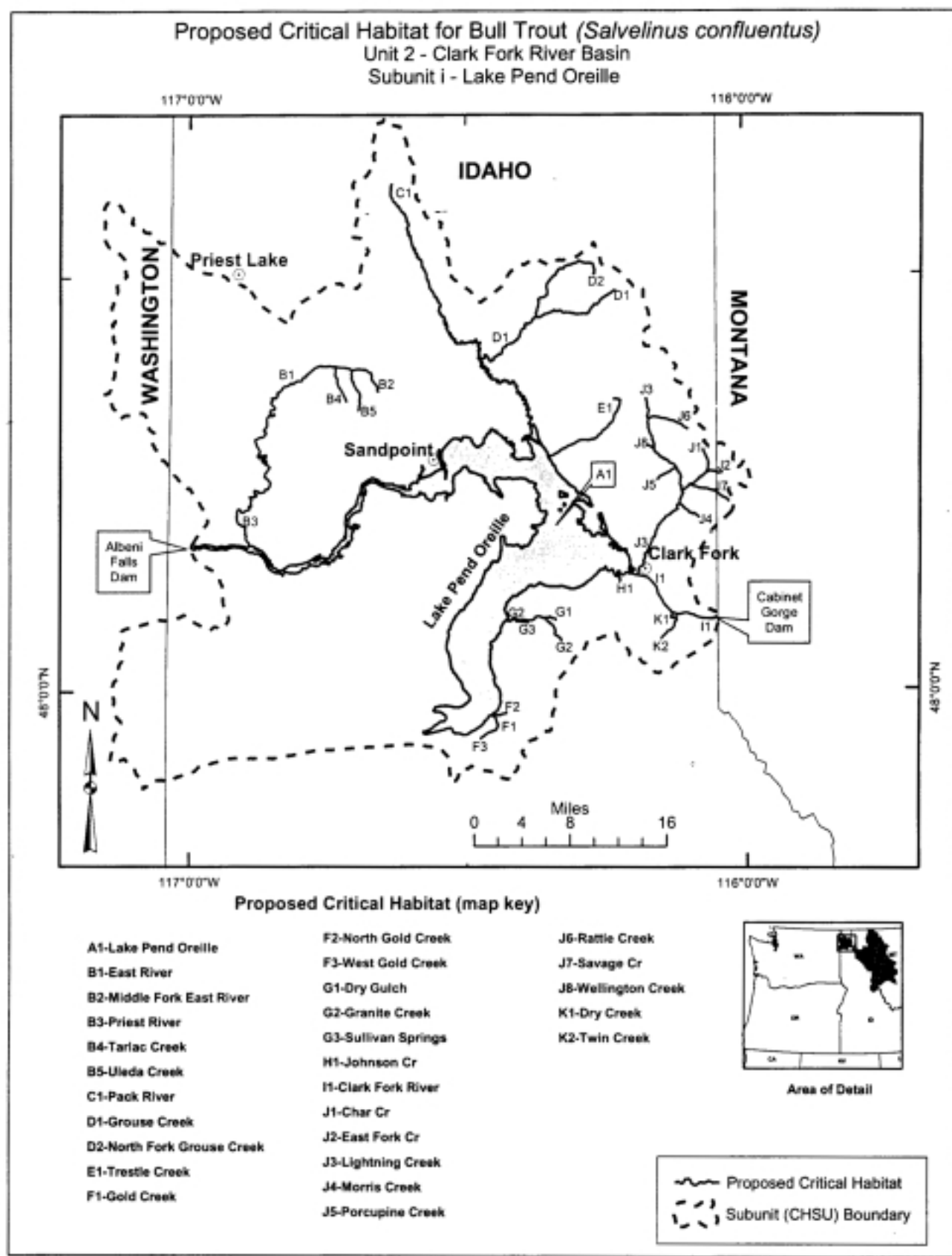
(O) East Fork Reservoir centered at 46.118 degrees latitude, and – 113.374 degrees longitude. Meadow Creek from a lower point located at 46.157 degrees latitude, and – 113.439 degrees longitude to an upper point located at 46.092 degrees latitude, and – 113.443 degrees longitude. Rock Creek, East Fork from a lower point located at 46.2 degrees latitude, and – 113.499 degrees longitude to an upper point located at 46.021 degrees latitude, and – 113.319 degrees longitude.

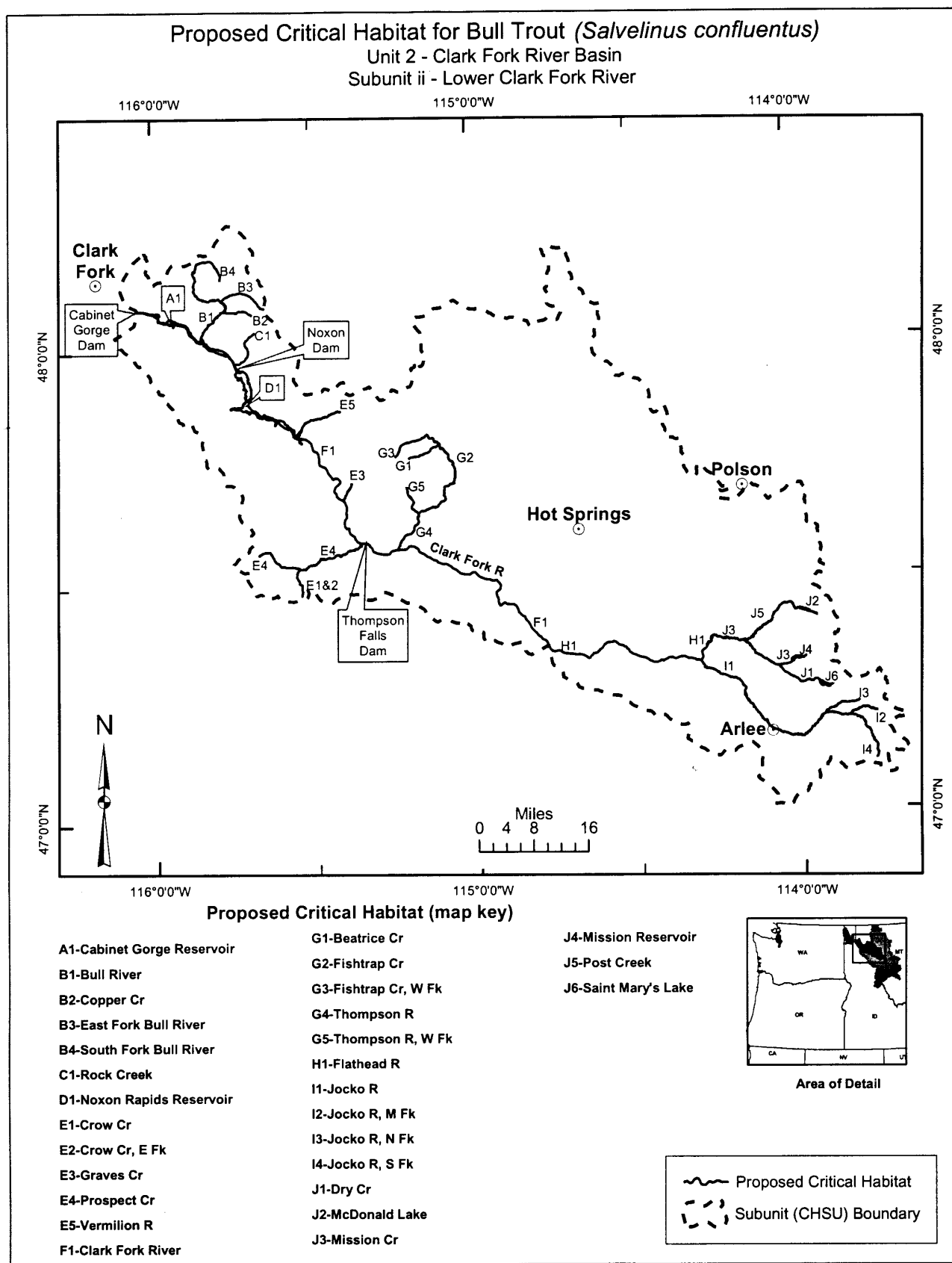
(P) Carpp Creek from a lower point located at 46.032 degrees latitude, and – 113.524 degrees longitude to an upper point located at 45.985 degrees latitude, and – 113.446 degrees longitude. Copper Creek from a lower point located at 46.068 degrees latitude, and – 113.538 degrees longitude to an upper point located at 45.949 degrees latitude, and – 113.569 degrees longitude. Green Canyon Creek from a lower point located at 46.05 degrees latitude, and – 113.578 degrees longitude to an upper point located at 46.065 degrees latitude, and – 113.646 degrees longitude. Lutz Creek from a lower point located at 46.031 degrees latitude, and – 113.61 degrees longitude to an upper point located at 46.051 degrees latitude, and – 113.655 degrees longitude. Meyers Creek from a lower point located at 46.052 degrees latitude, and – 113.537 degrees longitude to an upper point located at 45.988 degrees latitude, and – 113.57 degrees longitude. Rock Creek, Middle Fork from a lower point located at 46.223 degrees latitude, and – 113.521 degrees longitude to an upper point located at 45.949 degrees latitude, and – 113.523 degrees longitude.

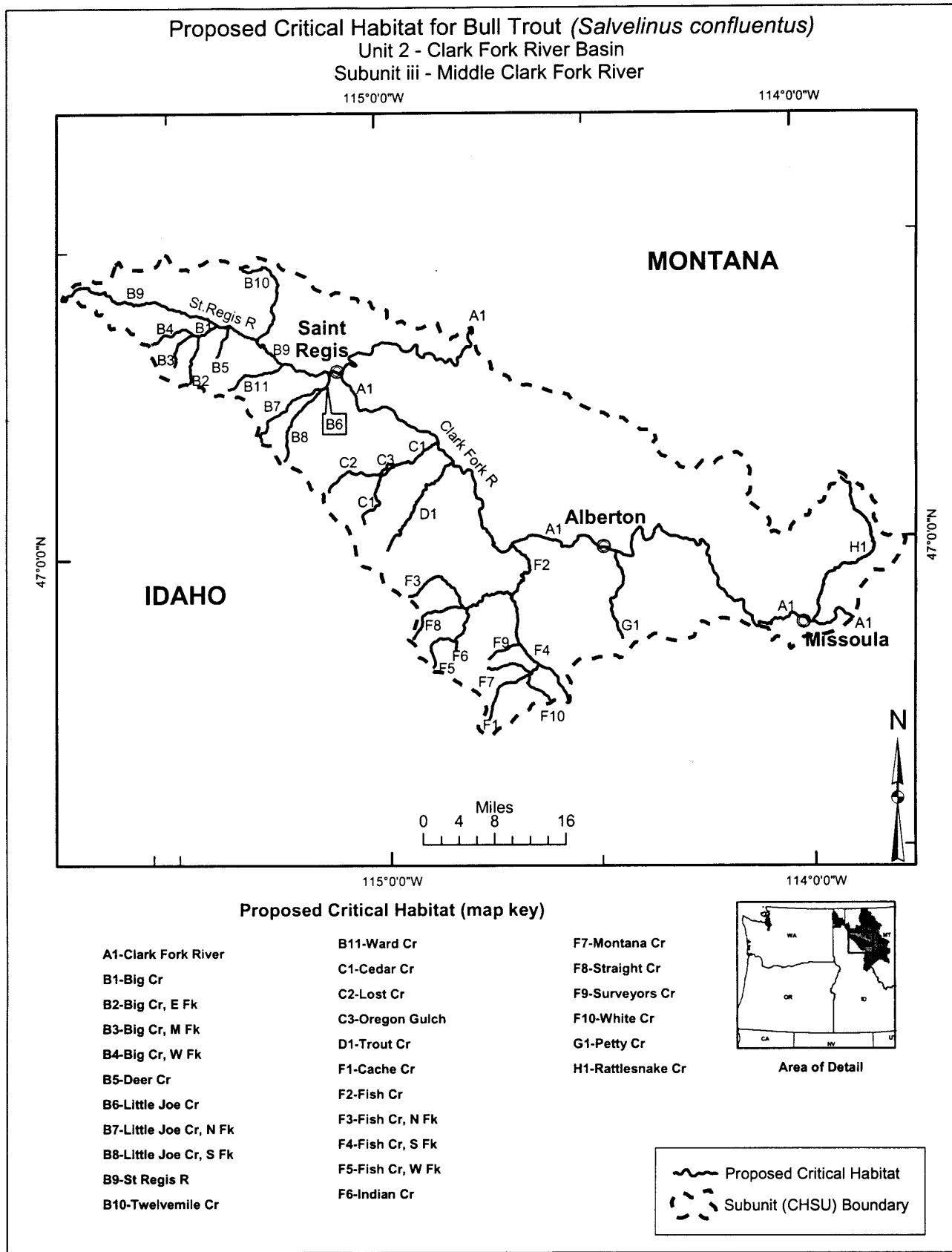
**Note:** Maps follow for Unit 2, Subunits i–xii.

**BILLING CODE 4310–55–P**





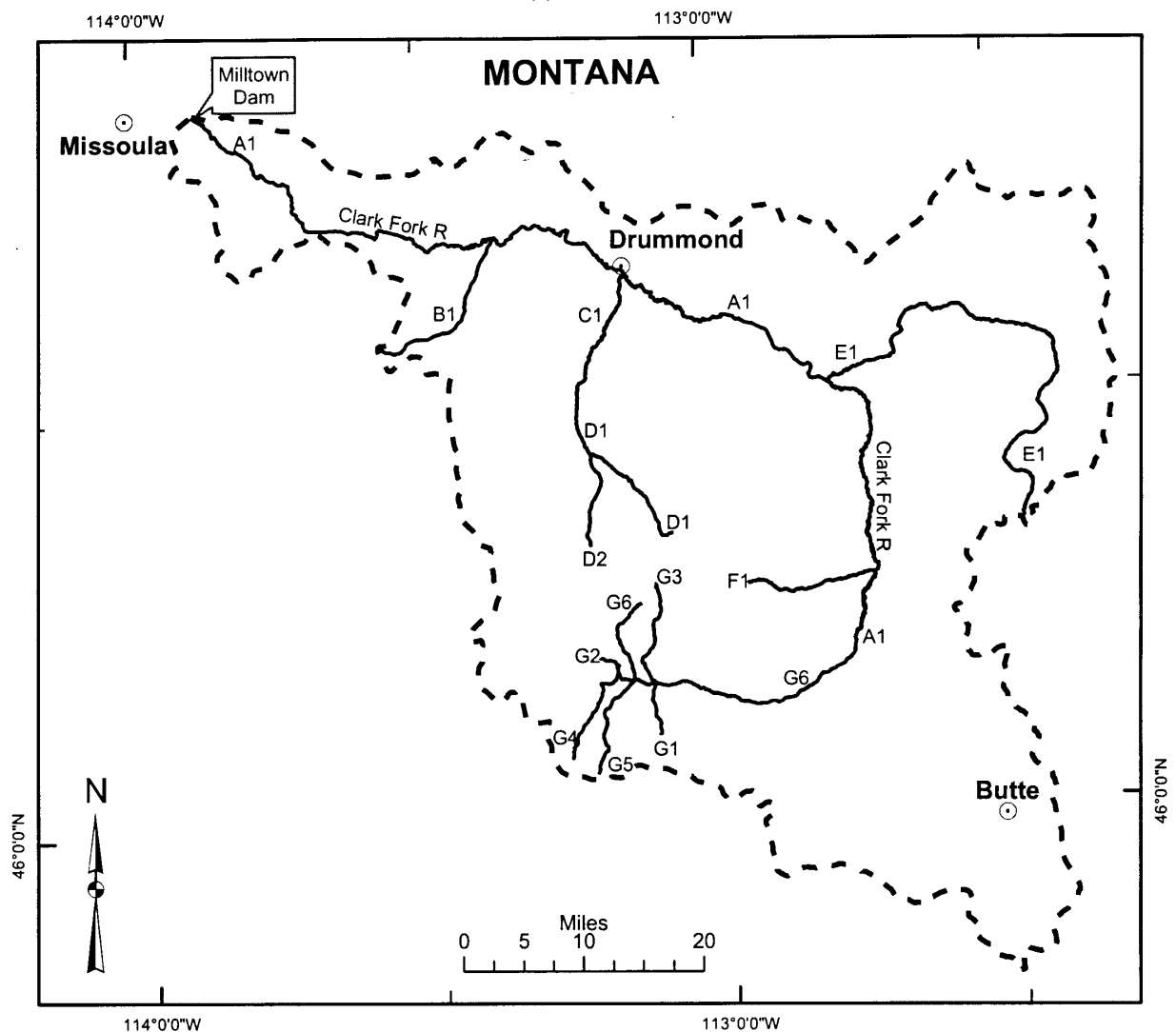




Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

Unit 2 - Clark Fork River Basin

Subunit iv - Upper Clark Fork River



## Proposed Critical Habitat (map key)

A1-Clark Fork River

B1-Harvey Cr

C1-Flint Cr

D1-Boulder Cr

D2-South Boulder Cr

E1-Little Blackfoot R

F1-Racetrack Cr

G1-Barker Cr

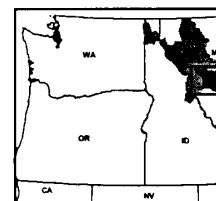
G2-Cable Cr

G3-Foster Cr

G4-Storm Lake Cr

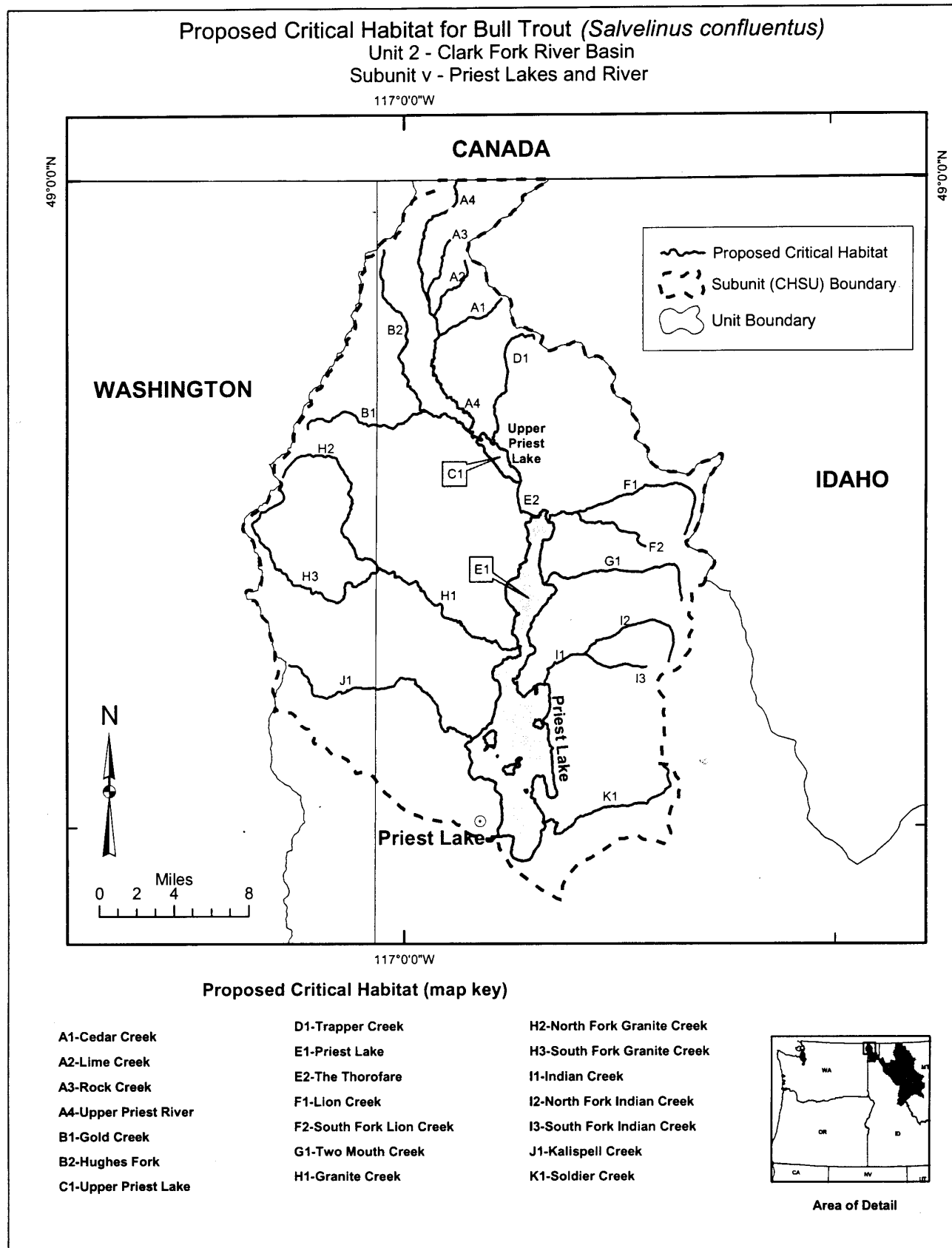
G5-Twin Lakes Cr

G6-Warm Springs Cr



Area of Detail

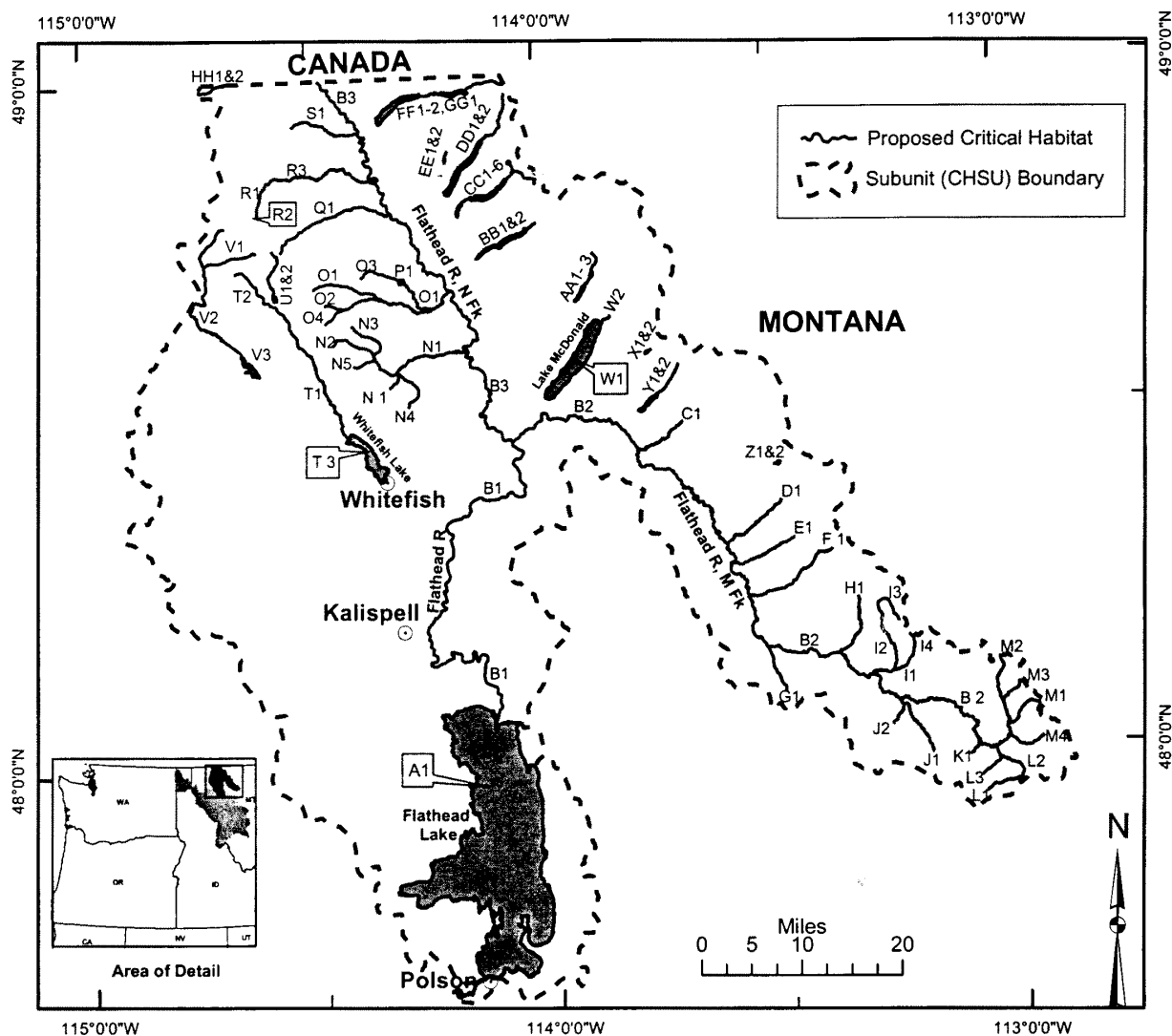
- Proposed Critical Habitat  
 Subunit (CHSU) Boundary



Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

## Unit 2 - Clark Fork River Basin

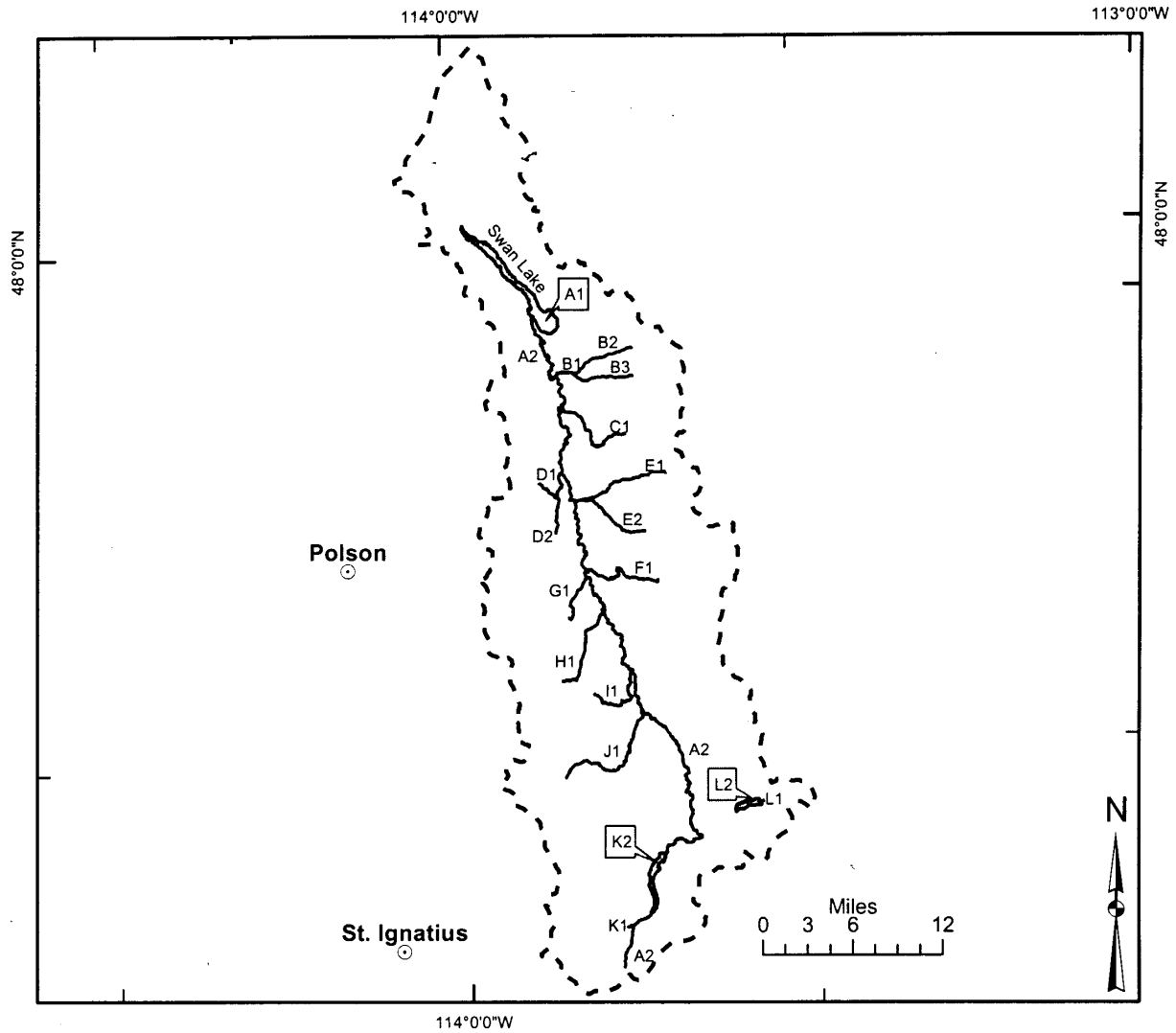
## Subunit vi - Flathead Lake and 20 Headwaters Lakes



## Proposed Critical Habitat (map Key)

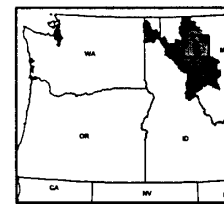
A1-Flathead Lake	I4-Whistler Cr	N3-Kletomus Cr	T1-Swift Cr	Y1-Harrison Cr	CC4-Quartz Cr
B1-Flathead R	J1-Dolly Varden Cr	N4-Skookoleel Cr	T2-Swift Cr, W Fk	Y2-Harrison Lake	CC5-Quartz Lake
B2-Flathead R, M Fk	J2-Schafer Cr	N5-Werner Cr	T3-Whitefish Lake	Z1-Lake Isabel	CC6-Rainbow Cr
B3-Flathead R, N Fk	K1-Clack Cr	O1-Coal Cr	U1-Swift Cr, E Fk	Z2-Park Cr	DD1-Bowman Cr
C1-Nyack Cr	L1-Basin Cr	O2-Coal Cr, S Fk	U2-Upper Whitefish Lake	AA1-Arrow Lake	DD2-Bowman Lake
D1-Park Cr	L2-Bowl Cr	O3-Cyclone Cr	V1-Fitzsimmons Cr	AA2-Camas Cr	EE1-Akokala Cr
E1-Ole Cr	L3-Scalp Cr	O4-Mathias Cr	V2-Stillwater R	AA3-Trout Lake	EE2-Akokala Lake
F1-Bear Creek	M1-Gateway Cr	P1-Cyclone Lake	V3-Upper Stillwater Lake	BB1-Logging Cr	FF1-Kintla Cr
G1-Long Creek	M2-Strawberry Cr	Q1-Red Meadow Cr	W1-Lake McDonald	BB2-Logging Lake	FF2-Kintla Lake
H1-Granite Cr	M3-Strawberry Cr, E Fk	R1-Shorty Cr	W2-McDonald Cr	CC1-Cerulean Lake	GG1-Upper Kintla Lake
I1-Lodgepole Cr	M4-Trail Cr	R2-Shorty Cr, S Fk	X1-Lincoln Cr	CC2-Lower Quartz Lake	HH1-Frozen Cr
I2-Morrison Cr	N1-Big Cr	R3-Whale Cr	X2-Lincoln Lake	CC3-Middle Quartz Lake	HH2-Frozen Lake
I3-Puzzle Cr	N2-Hallowat Cr	S1-Trail Cr			

**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 2 - Clark Fork River Basin**  
**Subunit vii - Swan**



**Proposed Critical Habitat (map key)**

A1-Swan Lake	G1-Piper Cr
A2-Swan River	H1-Jim Cr
B1-Lost Cr	I1-Cold Cr
B2-Lost Cr, N Fk	J1-Elk Cr
B3-Lost Cr, S Fk	K1-Crystal Creek
C1-Soup Cr	K2-Lindbergh Lake
D1-Woodward Cr	L1-Holland Cr
D2-Woodward Cr, S Fk	L2-Holland Lake
E1-Goat Cr	
E2-Squeezer Cr	
F1-Lion Cr	



**Area of Detail**

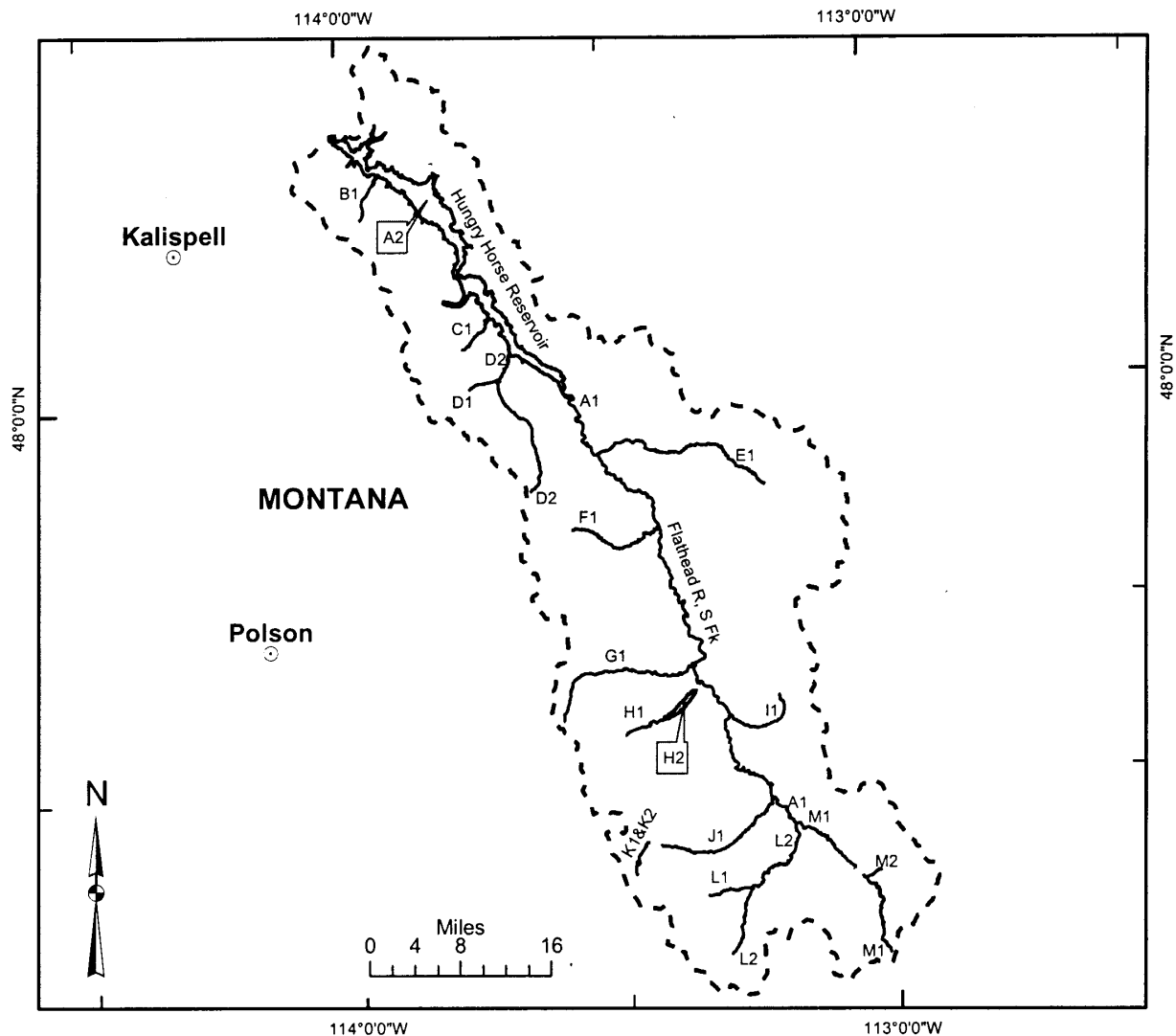
- ~~~~~ Proposed Critical Habitat  
 - - - - Subunit (CHSU) Boundary



Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

Unit 2 - Clark Fork River Basin

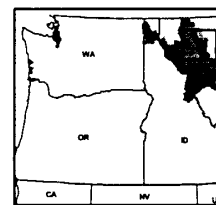
Subunit viii - Hungry Horse Reservoir



## Proposed Critical Habitat (map key)

A1-Flathead R, S Fk  
 A2-Hungry Horse Reservoir  
 B1-Wounded Buck Cr  
 C1-Wheeler Cr  
 D1-Quintonkon Cr  
 D2-Sullivan Cr  
 E1-Spotted Bear R  
 F1-Bunker Cr  
 G1-Little Salmon Cr  
 H1-Big Salmon Cr  
 H2-Big Salmon Lake

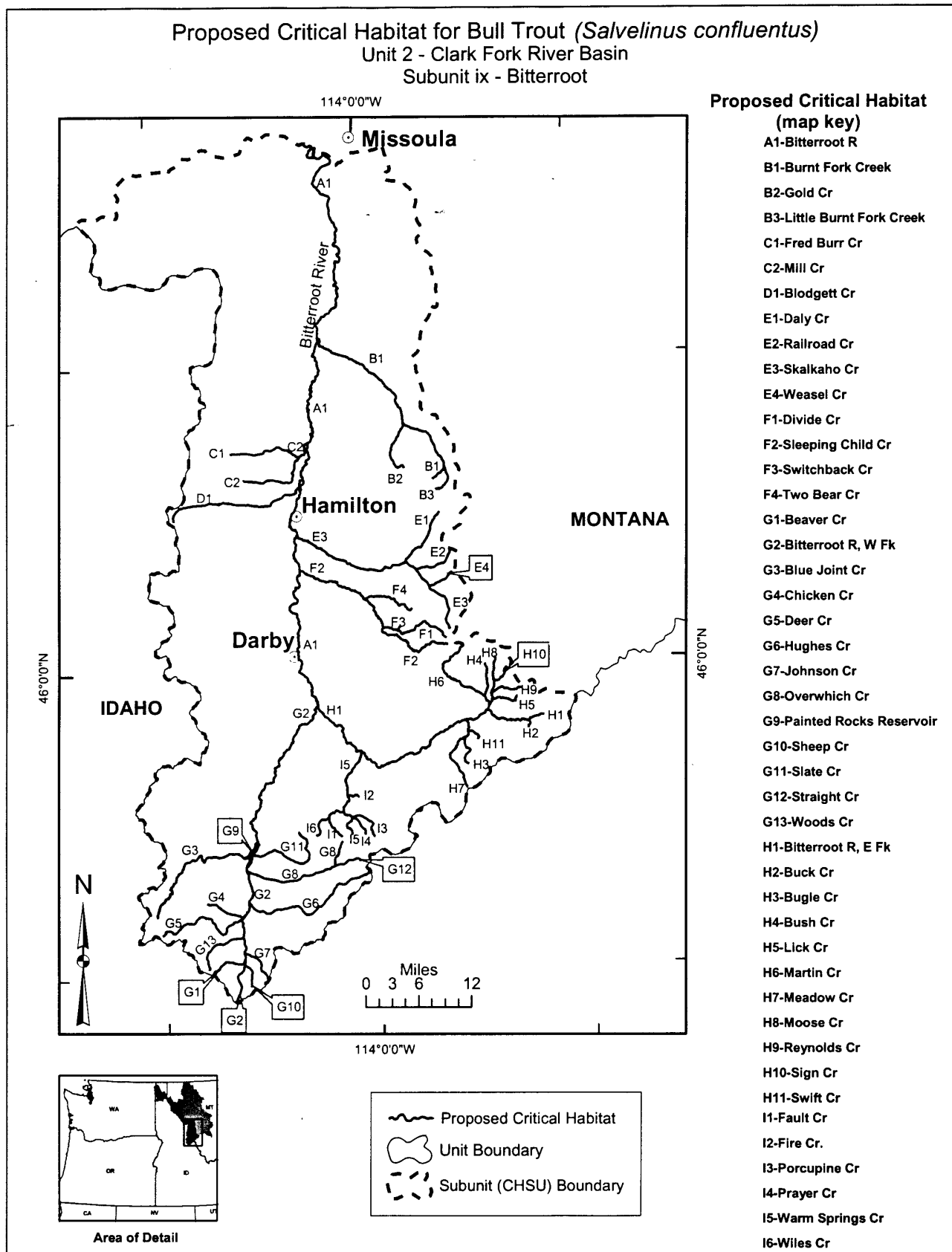
I1-White R  
 J1-Gordon Cr  
 K1-Doctor Cr  
 K2-Doctor Lake  
 L1-Babcock Cr  
 L2-Youngs Cr  
 M1-Danaher Cr  
 M2-Rapid Cr



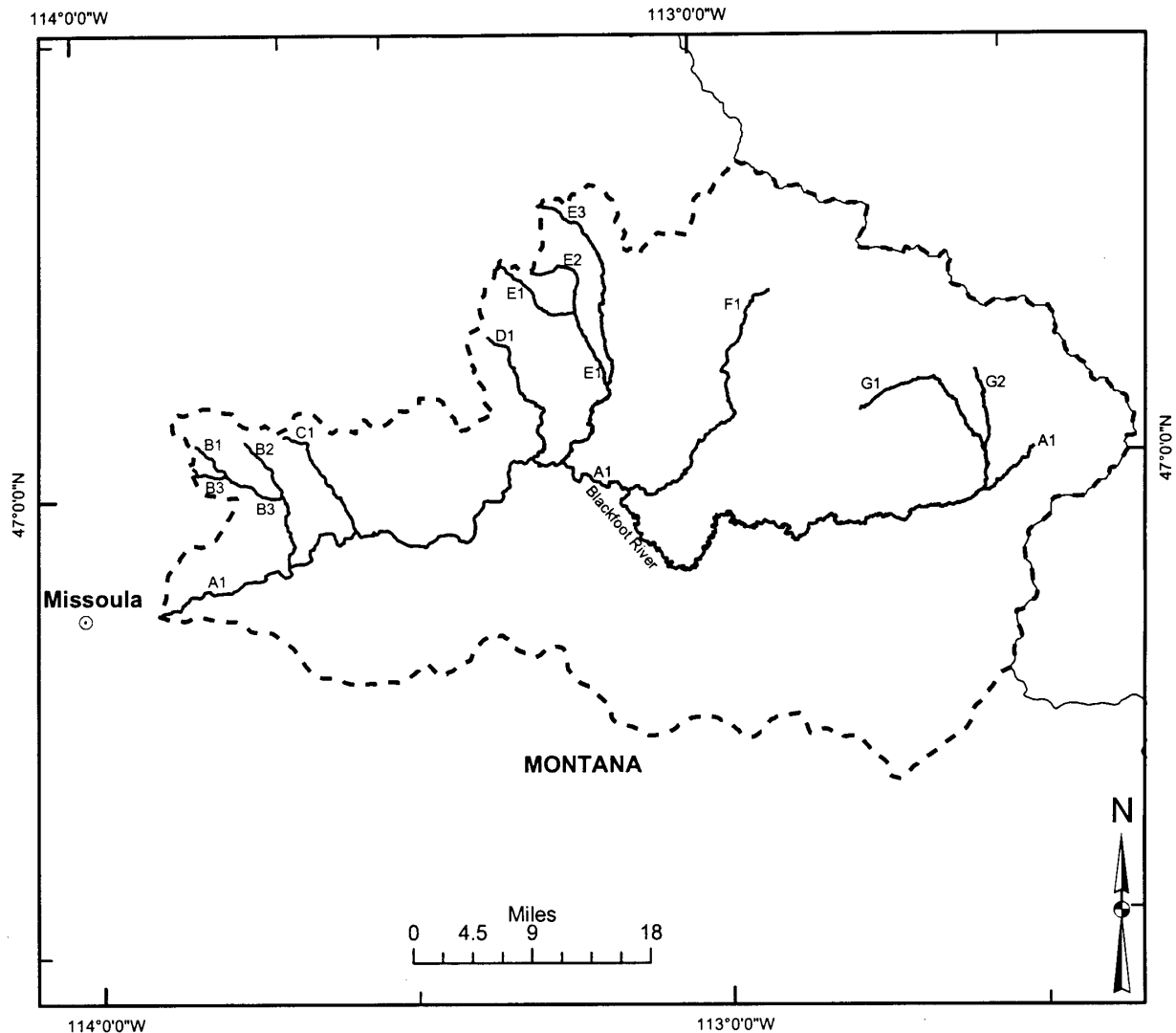
Area of Detail

Proposed Critical Habitat  
 Subunit (CHSU) Boundary

Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)  
Unit 2 - Clark Fork River Basin  
Subunit ix - Bitterroot

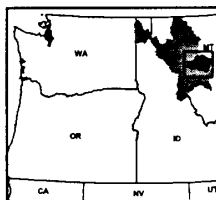


Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)  
Unit 2 - Clark Fork River Basin  
Subunit x - Blackfoot River

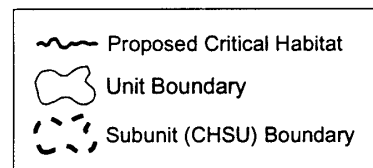


Proposed Critical Habitat (map key)

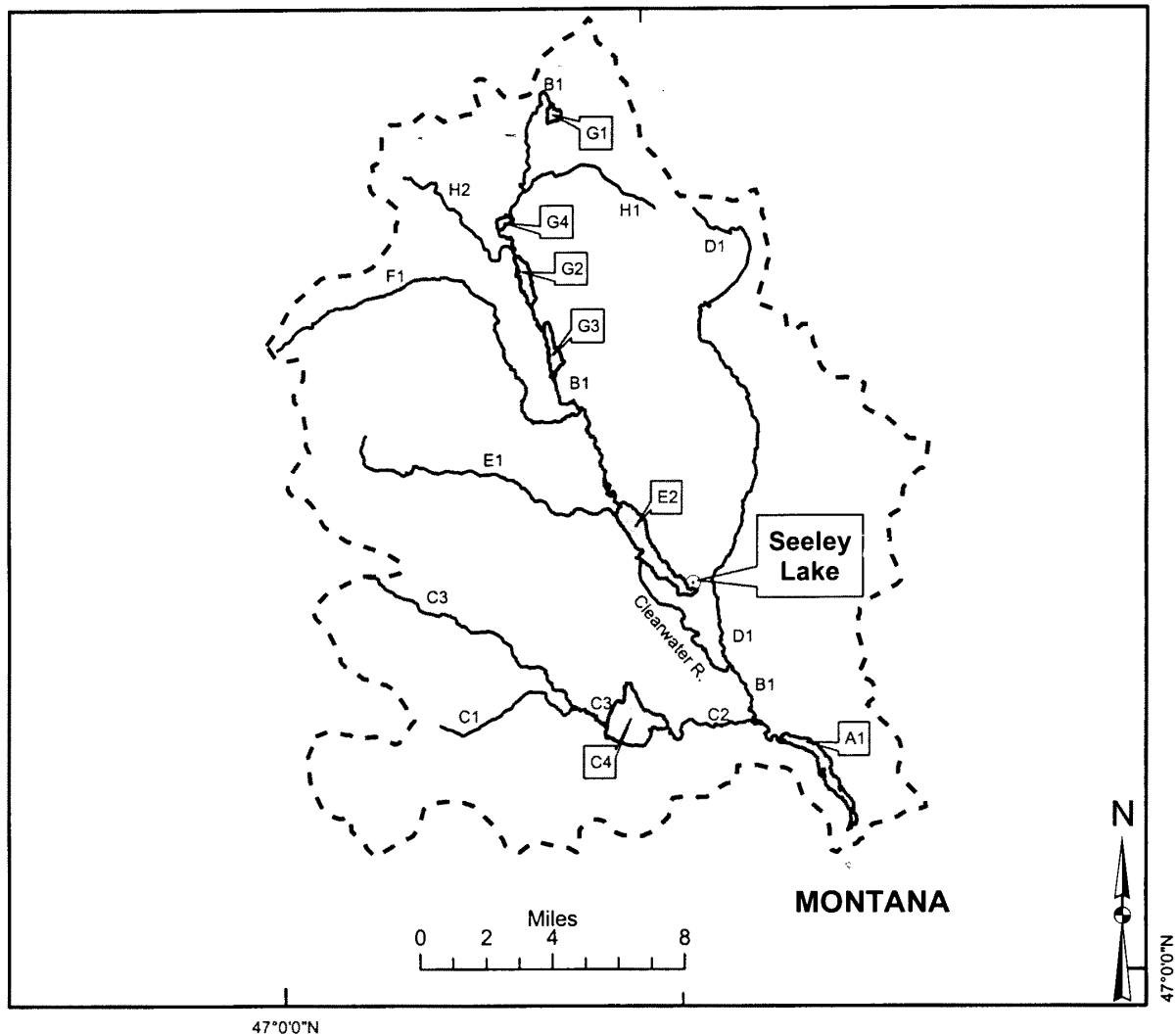
- A1-Blackfoot R
- B1-Daisy Cr
- B2-Gold Cr
- B3-Gold Cr, W Fk
- C1-Belmont Cr
- D1-Cottonwood Cr
- E1-Dunham Cr
- E2-Lodgepole Cr
- E3-Monture Cr
- F1-Blackfoot R, N Fk
- G1-Copper Cr
- G2-Landers Fk



Area of Detail

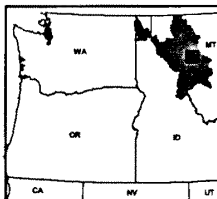


Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)  
 Unit 2 - Clark Fork River Basin  
 Subunit xi - Clearwater River and Lake Chain

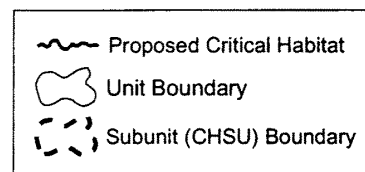


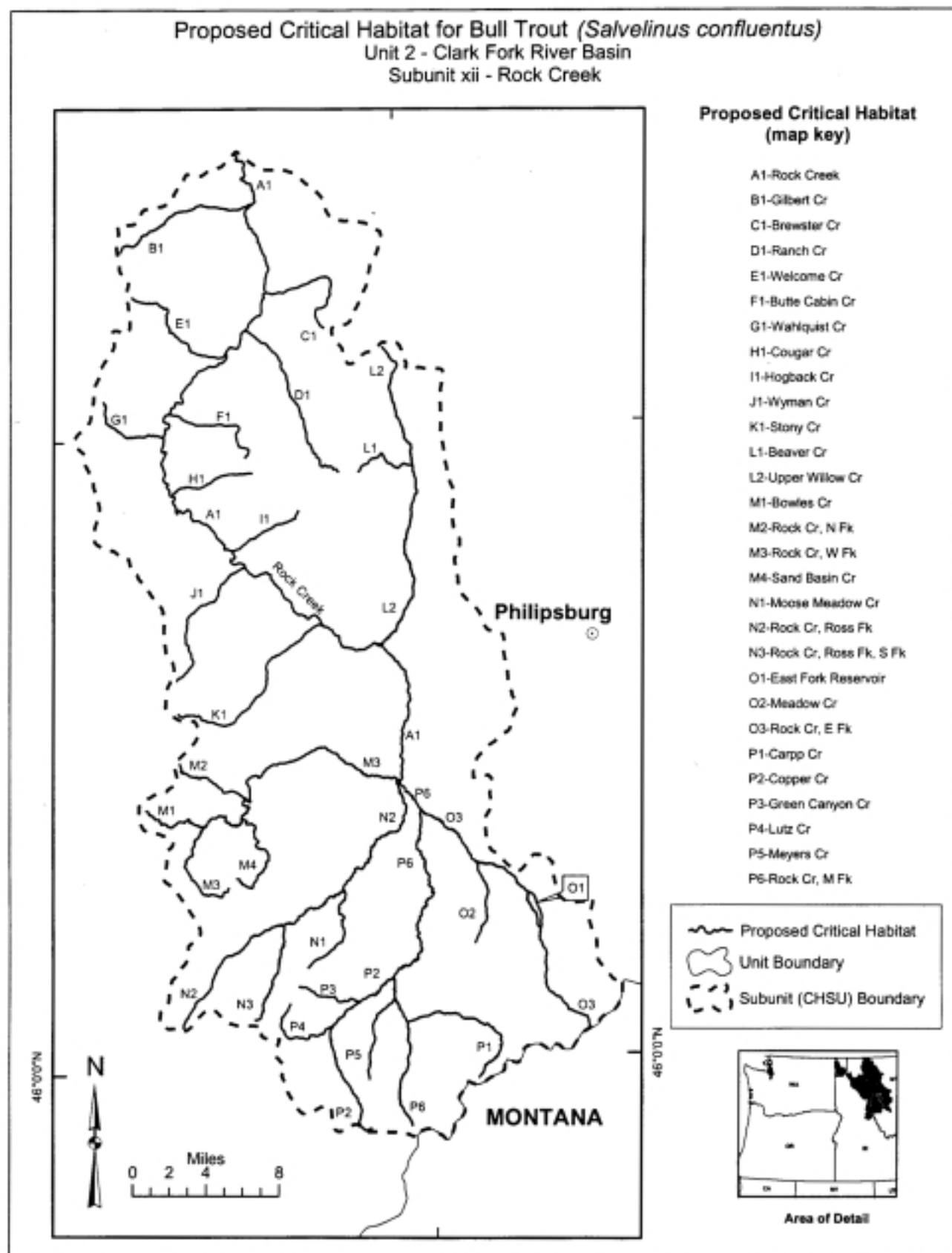
Proposed Critical Habitat (map key)

- |                       |                       |
|-----------------------|-----------------------|
| A1-Salmon Lake        | G2-Lake Alva          |
| B1-Clearwater R       | G3-Lake Inez          |
| C1-Finley Cr          | G4-Rainy Lake         |
| C2-Owl Cr             | H1-Clearwater R, E Fk |
| C3-Placid Cr          | H2-Colt Cr            |
| C4-Placid Lake        |                       |
| D1-Morrell Cr         |                       |
| E1-Deer Cr            |                       |
| E2-Seeley Lake        |                       |
| F1-Clearwater R, W Fk |                       |
| G1-Clearwater Lake    |                       |



Area of Detail





(7) Unit 3—Kootenai River Basin.

(i) Critical Habitat Subunit—Kootenai River and Bull Lake.

(A) Kootenai River from a lower point located at 49 degrees latitude, and –116.503 degrees longitude to an upper point located at 48.411 degrees latitude, and –115.314 degrees longitude.

(B) Callahan Creek from a lower point located at 48.435 degrees latitude, and –116.012 degrees longitude to an upper point located at 48.458 degrees latitude, and –115.881 degrees longitude.

Callahan Creek, North Fork from a lower point located at 48.435 degrees latitude, and –116.012 degrees longitude to an upper point located at 48.506 degrees latitude, and –116.191 degrees longitude. Callahan Creek, South Fork from a lower point located at 48.435 degrees latitude, and –116.012 degrees longitude to an upper point located at 48.434 degrees latitude, and –116.168 degrees longitude. Goat Creek from a lower point located at 48.435 degrees latitude, and –116 degrees longitude to an upper point located at 48.381 degrees latitude, and –116.038 degrees longitude. July Creek from a lower point located at 48.435 degrees latitude, and –115.916 degrees longitude to an upper point located at 48.423 degrees latitude, and –115.919 degrees longitude.

(C) O'Brien Creek from a lower point located at 48.448 degrees latitude, and –115.866 degrees longitude to an upper point located at 48.557 degrees latitude, and –115.862 degrees longitude.

(D) Quartz Creek from a lower point located at 48.438 degrees latitude, and –115.638 degrees longitude to an upper point located at 48.573 degrees latitude, and –115.689 degrees longitude. Quartz Creek, West Fork from a lower point located at 48.479 degrees latitude, and –115.653 degrees longitude to an upper point located at 48.523 degrees latitude, and –115.749 degrees longitude.

(E) Pipe Creek from a lower point located at 48.424 degrees latitude, and –115.606 degrees longitude to an upper point located at 48.674 degrees latitude, and –115.647 degrees longitude. Pipe Creek, East Fork from a lower point located at 48.616 degrees latitude, and –115.618 degrees longitude to an upper point located at 48.692 degrees latitude, and –115.593 degrees longitude.

(F) Bear Creek from a lower point located at 48.184 degrees latitude, and –115.507 degrees longitude to an upper point located at 48.162 degrees latitude, and –115.653 degrees longitude. Libby Creek from a lower point located at 48.393 degrees latitude, and –115.537 degrees longitude to an upper point located at 48.112 degrees latitude, and –115.552 degrees longitude. Poorman Creek from a lower point located at 48.149 degrees latitude, and –115.526 degrees longitude to an upper point located at 48.123 degrees latitude, and –115.631 degrees longitude. Ramsey Creek from a lower point located at 48.139 degrees latitude, and –115.534 degrees longitude to an upper point located at 48.091 degrees latitude, and –115.617 degrees longitude.

(G) Fisher River from a lower point located at 48.366 degrees latitude, and –115.323 degrees longitude to an upper point located at 48.07 degrees latitude, and –115.374 degrees longitude. West Fisher Creek from a lower point located at 48.07 degrees latitude, and –115.374 degrees longitude to an upper point located at 48.05 degrees latitude, and –115.594 degrees longitude.

(H) Bull Lake centered at 48.236 degrees latitude, and –115.844 degrees longitude. Keeler Creek from a lower point located at 48.36 degrees latitude, and –115.851 degrees longitude to an upper point located at 48.331 degrees latitude, and –116.006 degrees longitude. Keeler Creek, North Fork from a lower point located at 48.342

degrees latitude, and –115.896 degrees longitude to an upper point located at 48.364 degrees latitude, and –116.015 degrees longitude. Lake Creek from a lower point located at 48.36 degrees latitude, and –115.851 degrees longitude to an upper point located at 48.283 degrees latitude, and –115.858 degrees longitude.

(ii) Critical Habitat Subunit—Lake Koocanusa and Sophie Lake.

(A) Lake Koocanusa centered at 48.593 degrees latitude, and –115.231 degrees longitude.

(B) Blue Sky Creek from a lower point located at 48.895 degrees latitude, and –114.775 degrees longitude to an upper point located at 48.887 degrees latitude, and –114.751 degrees longitude.

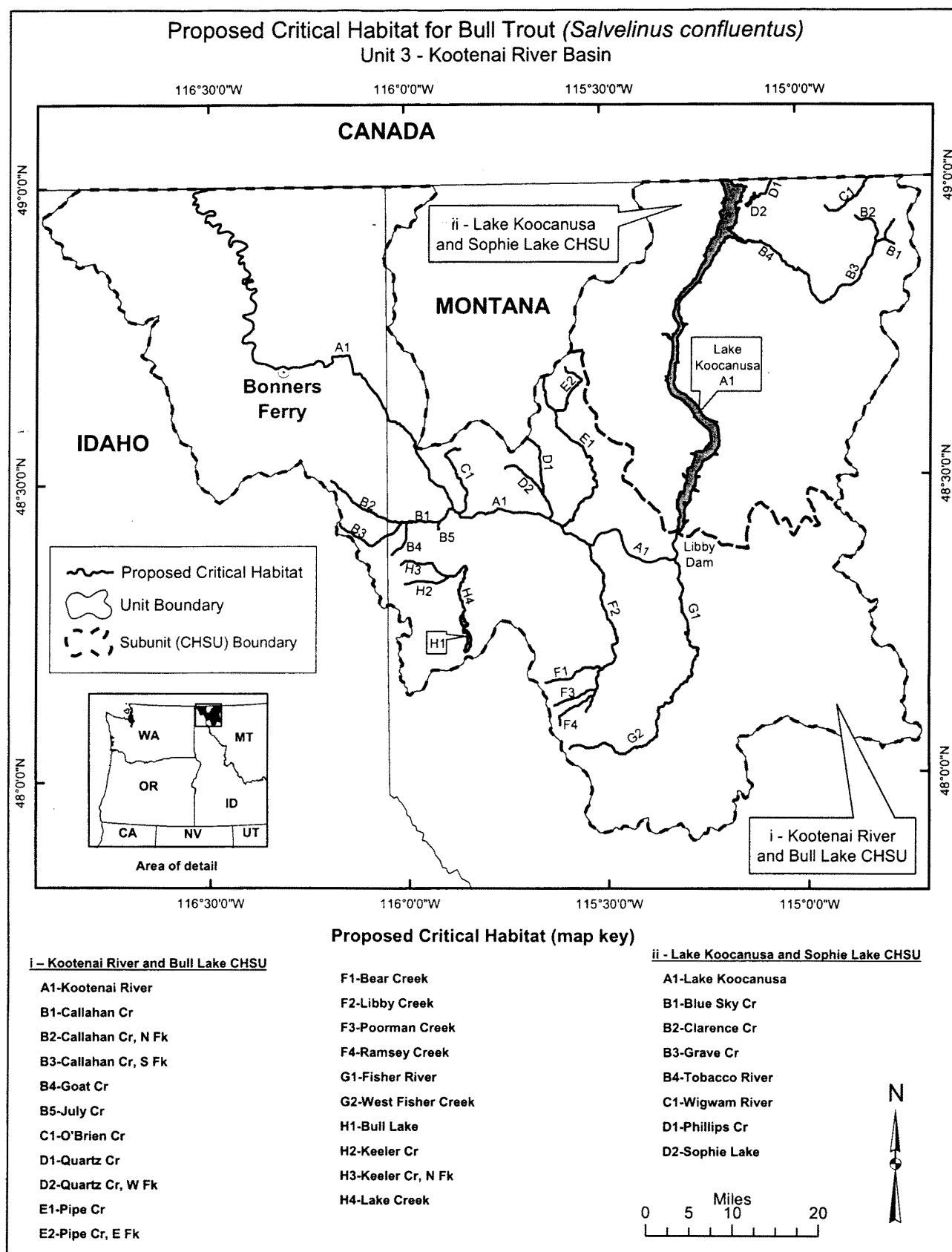
Clarence Creek from a lower point located at 48.889 degrees latitude, and –114.798 degrees longitude to an upper point located at 48.936 degrees latitude, and –114.85 degrees longitude. Grave Creek from a lower point located at 48.798 degrees latitude, and –114.952 degrees longitude to an upper point located at 48.927 degrees latitude, and –114.75 degrees longitude. Tobacco River from a lower point located at 48.897 degrees latitude, and –115.126 degrees longitude to an upper point located at 48.798 degrees latitude, and –114.952 degrees longitude.

(C) Wigwam River from a lower point located at 49 degrees latitude, and –114.801 degrees longitude to an upper point located at 48.953 degrees latitude, and –114.927 degrees longitude.

(D) Phillips Creek from a lower point located at 48.971 degrees latitude, and –115.104 degrees longitude to an upper point located at 49 degrees latitude, and –115.062 degrees longitude. Sophie Lake centered at 48.964 degrees latitude, and –115.115 degrees longitude.

**Note:** Map follows for Unit 3.

**BILLING CODE 4310–55–P**





## (8) Unit 4—Willamette River Basin.

(i) Willamette River from a lower point located at 44.126 degrees latitude, and –123.106 degrees longitude to an upper point located at 44.023 degrees latitude, and –123.017 degrees longitude.

(ii) Anderson Creek from a lower point located at 44.262 degrees latitude, and –122.045 degrees longitude to an upper point located at 44.276 degrees latitude, and –122.022 degrees longitude. Blue River from a lower point located at 44.153 degrees latitude, and –122.342 degrees longitude to an upper point located at 44.172 degrees latitude, and –122.328 degrees longitude. Cougar Reservoir centered at 44.101 degrees latitude, and –122.229 degrees longitude. Deer Creek from a lower point located at 44.241 degrees latitude, and –122.056 degrees longitude to an upper point located at 44.274 degrees latitude, and –122.082 degrees longitude. Horse Creek from a lower point located at 44.17 degrees latitude, and –122.174 degrees longitude to an upper point located at 44.125 degrees latitude, and –122.036 degrees longitude. Lost Creek from a lower point located at 44.19 degrees latitude, and –122.066 degrees longitude to an upper

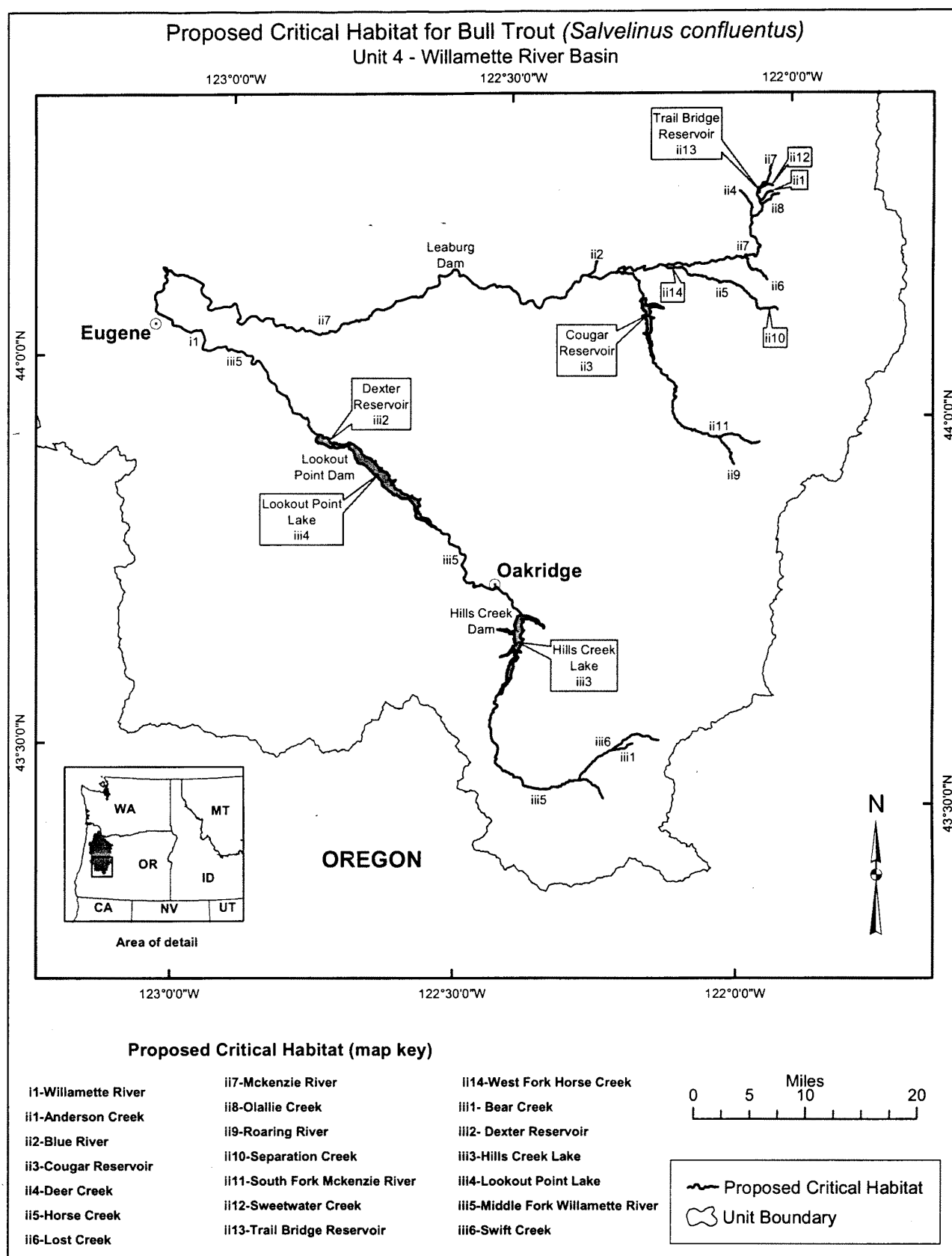
point located at 44.162 degrees latitude, and –122.022 degrees longitude.

McKenzie River from a lower point located at 44.126 degrees latitude, and –123.106 degrees longitude to an upper point located at 44.309 degrees latitude, and –122.028 degrees longitude. Olallie Creek from a lower point located at 44.257 degrees latitude, and –122.041 degrees longitude to an upper point located at 44.273 degrees latitude, and –122.011 degrees longitude. Roaring River from a lower point located at 43.956 degrees latitude, and –122.09 degrees longitude to an upper point located at 43.922 degrees latitude, and –122.06 degrees longitude. Separation Creek from a lower point located at 44.125 degrees latitude, and –122.036 degrees longitude to an upper point located at 44.125 degrees latitude, and –122 degrees longitude. South Fork McKenzie River from a lower point located at 44.159 degrees latitude, and –122.295 degrees longitude to an upper point located at 43.953 degrees latitude, and –122.017 degrees longitude. Sweetwater Creek from a lower point located at 44.279 degrees latitude, and –122.044 degrees longitude to an upper point located at 44.283 degrees latitude, and –122.023 degrees longitude. Trail

Bridge Reservoir centered at 44.277 degrees latitude, and –122.047 degrees longitude. West Fork Horse Creek from a lower point located at 44.172 degrees latitude, and –122.206 degrees longitude to an upper point located at 44.17 degrees latitude, and –122.174 degrees longitude.

(iii) Bear Creek from a lower point located at 43.544 degrees latitude, and –122.242 degrees longitude to an upper point located at 43.554 degrees latitude, and –122.207 degrees longitude. Dexter Reservoir centered at 43.915 degrees latitude, and –122.788 degrees longitude. Hills Creek Lake (reservoir) centered at 43.672 degrees latitude, and –122.426 degrees longitude. Lookout Point Lake (reservoir) centered at 43.872 degrees latitude, and –122.681 degrees longitude. Middle Fork Willamette River from a lower point located at 44.023 degrees latitude, and –123.017 degrees longitude to an upper point located at 43.481 degrees latitude, and –122.254 degrees longitude. Swift Creek from a lower point located at 43.502 degrees latitude, and –122.299 degrees longitude to an upper point located at 43.56 degrees latitude, and –122.162 degrees longitude.

**Note:** Map follows for Unit 4.



(9) Unit 5—Hood River Basin.

(i) Hood River from a lower point located at 45.721 degrees latitude, and –121.506 degrees longitude to an upper point located at 45.575 degrees latitude, and –121.626 degrees longitude.

(ii) West Fork Hood River from a lower point located at 45.605 degrees latitude, and –121.632 degrees longitude to an upper point located at 45.456 degrees latitude, and –121.781 degrees longitude.

(iii) Divers Creek from a lower point located at 45.544 degrees latitude, and –121.736 degrees longitude to an upper point located at 45.573 degrees latitude, and –121.787 degrees longitude. Lake Branch Hood River from a lower point located at 45.549 degrees latitude, and –121.699 degrees longitude to an upper point located at 45.539 degrees latitude, and –121.742 degrees longitude. Laurel Creek from a lower point located at 45.539 degrees latitude, and –121.742 degrees longitude to an upper point located at 45.513 degrees latitude, and –121.788 degrees longitude.

(iv) Elk Creek from a lower point located at 45.456 degrees latitude, and –121.781 degrees longitude to an upper point located at 45.405 degrees latitude,

and –121.772 degrees longitude. Red Hill Creek from a lower point located at 45.483 degrees latitude, and –121.769 degrees longitude to an upper point located at 45.453 degrees latitude, and –121.734 degrees longitude.

(v) East Fork Hood River from a lower point located at 45.575 degrees latitude, and –121.626 degrees longitude to an upper point located at 45.338 degrees latitude, and –121.671 degrees longitude. Evans Creek from a lower point located at 45.522 degrees latitude, and –121.576 degrees longitude to an upper point located at 45.425 degrees latitude, and –121.642 degrees longitude. Griswell Creek from a lower point located at 45.529 degrees latitude, and –121.577 degrees longitude to an upper point located at 45.522 degrees latitude, and –121.576 degrees longitude.

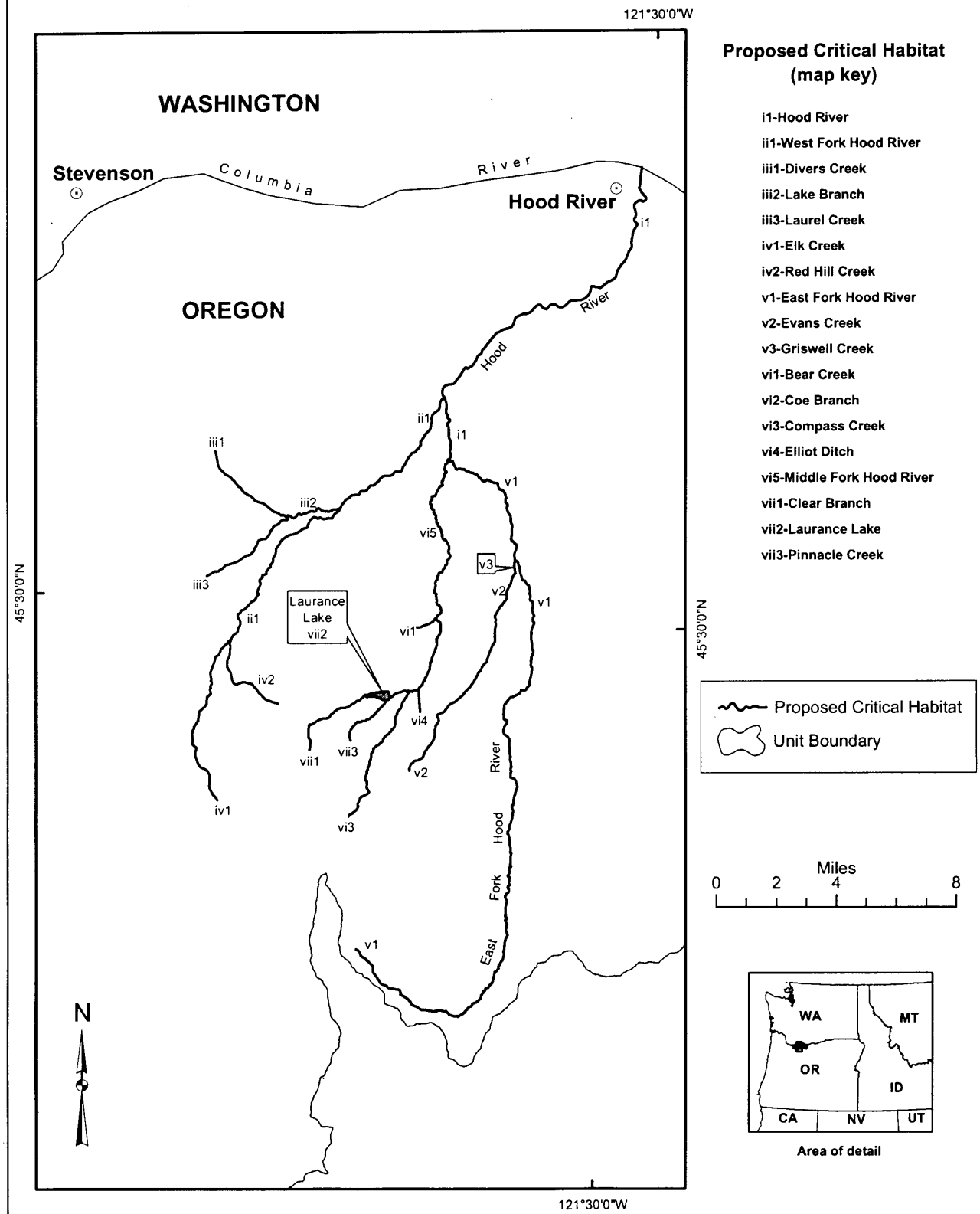
(vi) Bear Creek from a lower point located at 45.499 degrees latitude, and –121.629 degrees longitude to an upper point located at 45.494 degrees latitude, and –121.642 degrees longitude. Coe Branch from a lower point located at 45.463 degrees latitude, and –121.645 degrees longitude to an upper point located at 45.434 degrees latitude, and

–121.667 degrees longitude. Compass Creek from a lower point located at 45.434 degrees latitude, and –121.667 degrees longitude to an upper point located at 45.401 degrees latitude, and –121.681 degrees longitude. Elliot Creek from a lower point located at 45.464 degrees latitude, and –121.639 degrees longitude to an upper point located at 45.453 degrees latitude, and –121.637 degrees longitude. Middle Fork Hood River from a lower point located at 45.575 degrees latitude, and –121.626 degrees longitude to an upper point located at 45.463 degrees latitude, and –121.645 degrees longitude.

(vii) Clear Branch from a lower point located at 45.463 degrees latitude, and –121.645 degrees longitude to an upper point located at 45.432 degrees latitude, and –121.711 degrees longitude. Laurance Lake centered at 45.46 degrees latitude, and –121.664 degrees longitude. Pinnacle Creek from a lower point located at 45.458 degrees latitude, and –121.66 degrees longitude to an upper point located at 45.438 degrees latitude, and –121.683 degrees longitude.

**Note:** Map follows for Unit 5.

Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)  
Unit 5 - Hood River Basin



(10) Unit 6—Deschutes River Basin.  
(i) Critical Habitat Subunit—Lower Deschutes.

(A) Deschutes River from a lower point located at 45.639 degrees latitude, and –120.914 degrees longitude to an upper point located at 44.373 degrees latitude, and –121.291 degrees longitude. Lake Billy Chinook centered at 44.597 degrees latitude, and –121.285 degrees longitude. Lake Simtustus centered at 44.656 degrees latitude, and –121.259 degrees longitude. Pelton Reservoir centered at 44.714 degrees latitude, and –121.241 degrees longitude.

(B) Bunchgrass Creek from a lower point located at 44.982 degrees latitude, and –121.629 degrees longitude to an upper point located at 45.058 degrees latitude, and –121.673 degrees longitude. Warm Springs River 1 from a lower point located at 44.997 degrees latitude, and –121.067 degrees longitude to an upper point located at 44.942 degrees latitude, and –121.43 degrees longitude. Warm Springs River 2 from a lower point located at 44.97 degrees latitude, and –121.477 degrees longitude to an upper point located at 44.97 degrees latitude, and –121.584 degrees longitude. Warm Springs River 3 from a lower point located at 44.991 degrees latitude, and –121.667 degrees longitude to an upper point located at 44.993 degrees latitude, and –121.68 degrees longitude. Warm Springs River 4 from a lower point located at 44.997 degrees latitude, and –121.715 degrees longitude to an upper point located at 45.003 degrees latitude, and –121.74 degrees longitude.

(C) Shitike Creek from a lower point located at 44.762 degrees latitude, and –121.227 degrees longitude to an upper point located at 44.727 degrees latitude, and –121.786 degrees longitude.

(D) Crooked River from a lower point located at 44.501 degrees latitude, and –121.285 degrees longitude to an upper point located at 44.31 degrees latitude, and –120.868 degrees longitude.

(E) Metolius River from a lower point located at 44.619 degrees latitude, and –121.468 degrees longitude to an upper point located at 44.434 degrees latitude, and –121.637 degrees longitude.

(F) Whitewater River from a lower point located at 44.67 degrees latitude, and –121.545 degrees longitude to an upper point located at 44.704 degrees latitude, and –121.727 degrees longitude.

(G) Abbot Creek from a lower point located at 44.57 degrees latitude, and –121.619 degrees longitude to an upper point located at 44.544 degrees latitude, and –121.67 degrees longitude. Candle Creek from a lower point located at

44.576 degrees latitude, and –121.618 degrees longitude to an upper point located at 44.583 degrees latitude, and –121.677 degrees longitude. Jefferson Creek from a lower point located at 44.577 degrees latitude, and –121.619 degrees longitude to an upper point located at 44.64 degrees latitude, and –121.734 degrees longitude. Unnamed creek—off Jefferson Creek from a lower point located at 44.626 degrees latitude, and –121.69 degrees longitude to an upper point located at 44.634 degrees latitude, and –121.698 degrees longitude.

(H) Brush Creek from a lower point located at 44.504 degrees latitude, and –121.658 degrees longitude to an upper point located at 44.544 degrees latitude, and –121.706 degrees longitude. Canyon Creek from a lower point located at 44.501 degrees latitude, and –121.642 degrees longitude to an upper point located at 44.503 degrees latitude, and –121.741 degrees longitude. Heising Spring from a lower point located at 44.494 degrees latitude, and –121.648 degrees longitude to an upper point located at 44.491 degrees latitude, and –121.651 degrees longitude. Jack Creek from a lower point located at 44.493 degrees latitude, and –121.647 degrees longitude to an upper point located at 44.472 degrees latitude, and –121.725 degrees longitude. Roaring Creek from a lower point located at 44.508 degrees latitude, and –121.686 degrees longitude to an upper point located at 44.527 degrees latitude, and –121.708 degrees longitude. Unnamed creek off Canyon Creek from a lower point located at 44.505 degrees latitude, and –121.657 degrees longitude to an upper point located at 44.527 degrees latitude, and –121.678 degrees longitude.

(I) Blue Lake centered at 44.413 degrees latitude, and –121.768 degrees longitude. Lake Creek from a lower point located at 44.436 degrees latitude, and –121.702 degrees longitude to an upper point located at 44.426 degrees latitude, and –121.726 degrees longitude. Link Creek from a lower point located at 44.419 degrees latitude, and –121.754 degrees longitude to an upper point located at 44.415 degrees latitude, and –121.764 degrees longitude. Middle Fork Lake Creek from a lower point located at 44.453 degrees latitude, and –121.642 degrees longitude to an upper point located at 44.436 degrees latitude, and –121.702 degrees longitude. North Fork Lake Creek from a lower point located at 44.457 degrees latitude, and –121.642 degrees longitude to an upper point located at 44.436 degrees latitude, and –121.702 degrees longitude. South Fork

Lake Creek from a lower point located at 44.442 degrees latitude, and –121.661 degrees longitude to an upper point located at 44.436 degrees latitude, and –121.704 degrees longitude. Suttle Lake centered at 44.422 degrees latitude, and –121.74 degrees longitude.

(J) Squaw Creek from a lower point located at 44.46 degrees latitude, and –121.335 degrees longitude to an upper point located at 44.445 degrees latitude, and –121.346 degrees longitude.

(ii) Critical Habitat Subunit—Upper Deschutes.

(A) Big Marsh Creek from a lower point located at 43.483 degrees latitude, and –121.907 degrees longitude to an upper point located at 43.318 degrees latitude, and –121.993 degrees longitude. Crane Prairie Reservoir centered at 43.786 degrees latitude, and –121.8 degrees longitude. Crescent Creek from a lower point located at 43.529 degrees latitude, and –121.651 degrees longitude to an upper point located at 43.501 degrees latitude, and –121.972 degrees longitude. Crescent Lake centered at 43.478 degrees latitude, and –121.989 degrees longitude. Deschutes River from a lower point located at 43.742 degrees latitude, and –121.779 degrees longitude to an upper point located at 43.901 degrees latitude, and –121.76 degrees longitude. Lava Lake centered at 43.921 degrees latitude, and –121.772 degrees longitude. Little Deschutes River from a lower point located at 43.529 degrees latitude, and –121.651 degrees longitude to an upper point located at 43.301 degrees latitude, and –121.994 degrees longitude. Little Lava Lake centered at 43.91 degrees latitude, and –121.757 degrees longitude. Wickiup Reservoir centered at 43.679 degrees latitude, and –121.732 degrees longitude.

(B) Cold Creek from a lower point located at 43.521 degrees latitude, and –121.951 degrees longitude to an upper point located at 43.515 degrees latitude, and –122 degrees longitude. Refrigerator Creek from a lower point located at 43.452 degrees latitude, and –121.935 degrees longitude to an upper point located at 43.419 degrees latitude, and –121.989 degrees longitude. Whitefish Creek from a lower point located at 43.468 degrees latitude, and –122.031 degrees longitude to an upper point located at 43.527 degrees latitude, and –122.07 degrees longitude.

(C) Fall River from a lower point located at 43.768 degrees latitude, and –121.632 degrees longitude to an upper point located at 43.788 degrees latitude, and –121.514 degrees longitude. Hemlock Creek from a lower point located at 43.365 degrees latitude, and –121.825 degrees longitude to an upper

point located at 43.334 degrees latitude, and – 121.917 degrees longitude. Spruce Creek from a lower point located at 43.352 degrees latitude, and – 121.857 degrees longitude to an upper point located at 43.369 degrees latitude, and – 121.922 degrees longitude.

(D) Browns Creek from a lower point located at 43.721 degrees latitude, and – 121.791 degrees longitude to an upper point located at 43.727 degrees latitude, and – 121.954 degrees longitude. Cultus River from a lower point located at 43.809 degrees latitude, and – 121.796 degrees longitude to an upper point located at 43.899 degrees latitude, and – 121.858 degrees longitude. Quinn River from a lower point located at

43.784 degrees latitude, and – 121.835 degrees longitude to an upper point located at 43.782 degrees latitude, and – 121.836 degrees longitude. Snow Creek from a lower point located at 43.814 degrees latitude, and – 121.776 degrees longitude to an upper point located at 43.879 degrees latitude, and – 121.767 degrees longitude.

(11) Unit 7—Odell Lake.

(i) Odell Lake centered at 43.572 degrees latitude, and – 122 degrees longitude.

(ii) Trapper Creek from a lower point located at 43.585 degrees latitude, and – 122.046 degrees longitude to an upper point located at 43.537 degrees latitude, and – 122.075 degrees longitude.

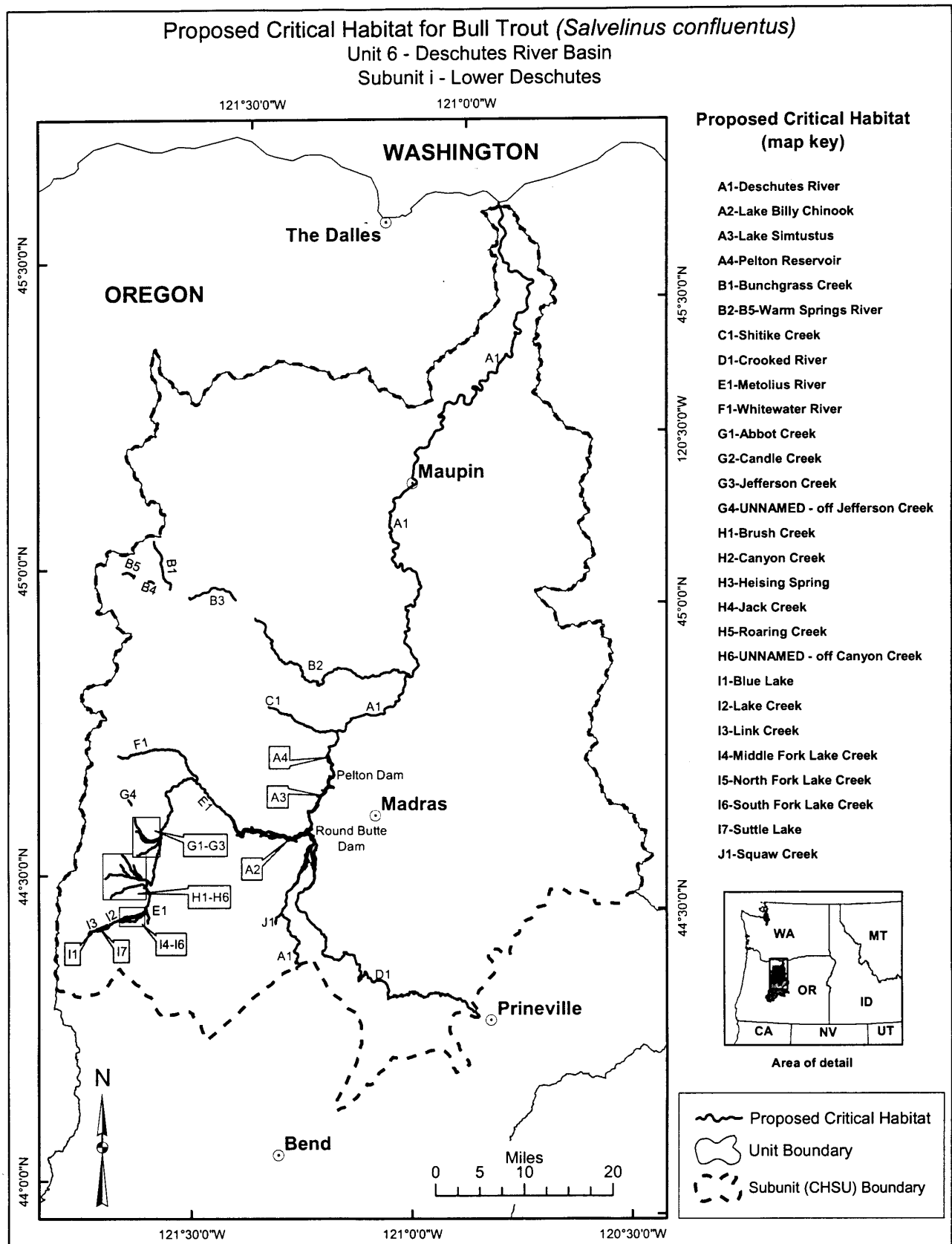
(iii) Crystal Creek from a lower point located at 43.572 degrees latitude, and – 122.021 degrees longitude to an upper point located at 43.566 degrees latitude, and – 122.05 degrees longitude.

(iv) Odell Creek from a lower point located at 43.591 degrees latitude, and – 121.853 degrees longitude to an upper point located at 43.55 degrees latitude, and – 121.963 degrees longitude.

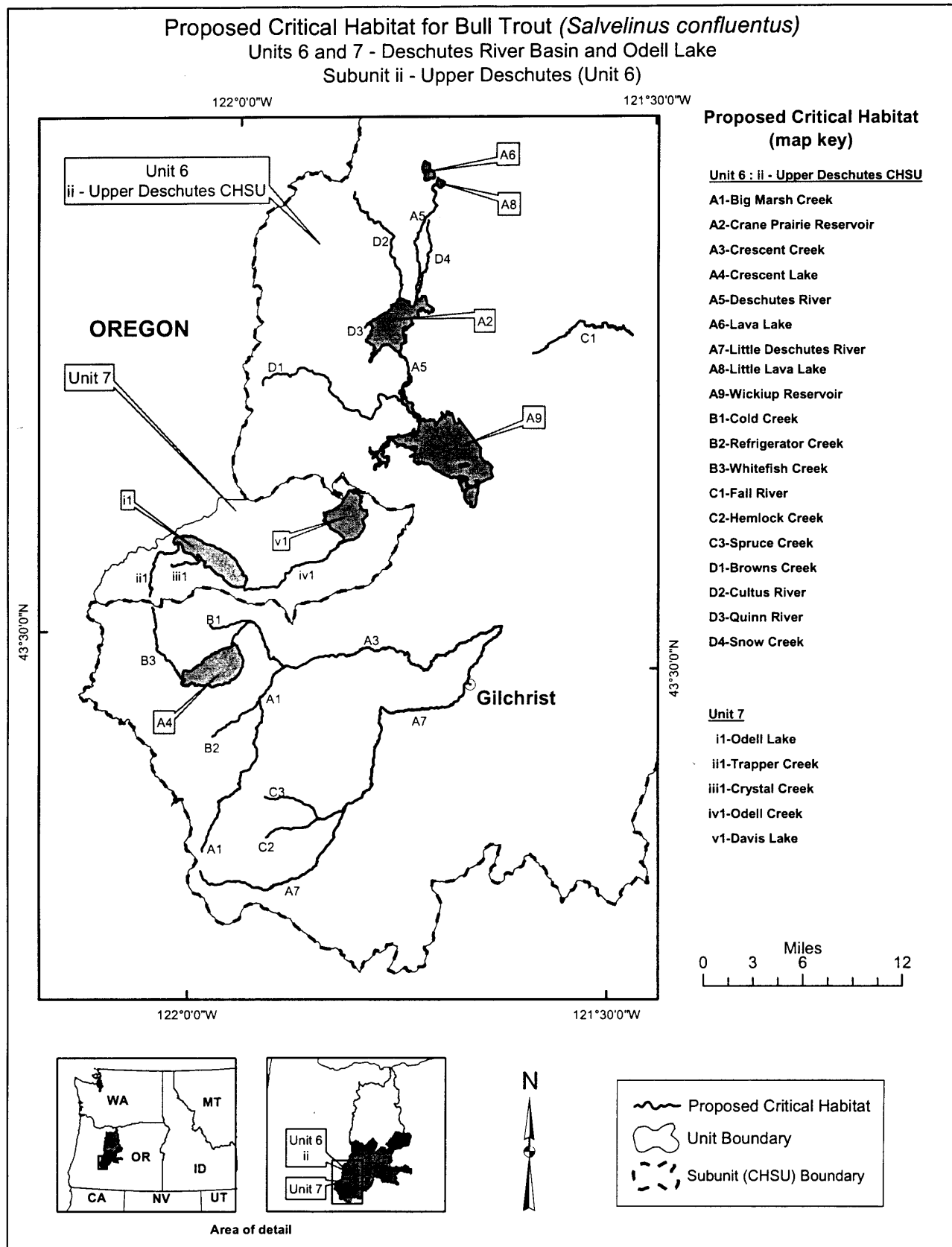
(v) Davis Lake centered at 43.616 degrees latitude, and – 121.843 degrees longitude.

**Note:** Maps follow for Unit 6, Subunit i; and for Unit 6, Subunit ii and Unit 7.

**BILLING CODE 4310-55-P**







(12) Unit 8—John Day River Basin.

(i) Call Creek from a lower point located at 44.32 degrees latitude, and –118.556 degrees longitude to an upper point located at 44.286 degrees latitude, and –118.506 degrees longitude. Canyon Creek from a lower point located at 44.423 degrees latitude, and –118.958 degrees longitude to an upper point located at 44.27 degrees latitude, and –118.731 degrees longitude. Deardorff Creek from a lower point located at 44.395 degrees latitude, and –118.576 degrees longitude to an upper point located at 44.383 degrees latitude, and –118.422 degrees longitude. Indian Creek from a lower point located at 44.443 degrees latitude, and –118.799 degrees longitude to an upper point located at 44.295 degrees latitude, and –118.735 degrees longitude. John Day River from a lower point located at 44.755 degrees latitude, and –119.638 degrees longitude to an upper point located at 44.25 degrees latitude, and –118.526 degrees longitude. North Reynolds Creek from a lower point located at 44.423 degrees latitude, and –118.516 degrees longitude to an upper point located at 44.43 degrees latitude, and –118.424 degrees longitude. Pine Creek from a lower point located at 44.438 degrees latitude, and –118.826 degrees longitude to an upper point located at 44.315 degrees latitude, and –118.797 degrees longitude. Rail Creek from a lower point located at 44.349 degrees latitude, and –118.573 degrees longitude to an upper point located at 44.297 degrees latitude, and –118.489 degrees longitude. Reynolds Creek from a lower point located at 44.414 degrees latitude, and –118.595 degrees longitude to an upper point located at 44.405 degrees latitude, and –118.439 degrees longitude. Roberts Creek from a lower point located at 44.348 degrees latitude, and –118.574 degrees longitude to an upper point located at 44.276 degrees latitude, and –118.574 degrees longitude. Strawberry Creek from a lower point located at 44.459 degrees latitude, and –118.7 degrees longitude to an upper point located at 44.293 degrees latitude, and –118.699 degrees longitude.

(ii) Baldy Creek from a lower point located at 44.91 degrees latitude, and –118.317 degrees longitude to an upper point located at 44.85 degrees latitude, and –118.304 degrees longitude. Big Creek from a lower point located at 44.961 degrees latitude, and –118.682 degrees longitude to an upper point located at 44.977 degrees latitude, and –118.671 degrees longitude. Boulder Creek from a lower point located at 44.82 degrees latitude, and –118.414 degrees longitude to an upper point

located at 44.841 degrees latitude, and –118.332 degrees longitude. Boundary Creek from a lower point located at 44.787 degrees latitude, and –118.374 degrees longitude to an upper point located at 44.811 degrees latitude, and –118.342 degrees longitude. Bull Run Creek from a lower point located at 44.808 degrees latitude, and –118.424 degrees longitude to an upper point located at 44.768 degrees latitude, and –118.29 degrees longitude. Clear Creek from a lower point located at 44.821 degrees latitude, and –118.449 degrees longitude to an upper point located at 44.758 degrees latitude, and –118.509 degrees longitude. Crane Creek from a lower point located at 44.894 degrees latitude, and –118.477 degrees longitude to an upper point located at 44.869 degrees latitude, and –118.329 degrees longitude. Crawfish Creek from a lower point located at 44.915 degrees latitude, and –118.297 degrees longitude to an upper point located at 44.931 degrees latitude, and –118.233 degrees longitude. Cunningham Creek from a lower point located at 44.911 degrees latitude, and –118.266 degrees longitude to an upper point located at 44.92 degrees latitude, and –118.234 degrees longitude. Deep Creek from a lower point located at 44.78 degrees latitude, and –118.347 degrees longitude to an upper point located at 44.815 degrees latitude, and –118.305 degrees longitude. Desolation Creek from a lower point located at 44.998 degrees latitude, and –118.935 degrees longitude to an upper point located at 44.82 degrees latitude, and –118.688 degrees longitude. East Fork Meadow Brook from a lower point located at 44.969 degrees latitude, and –118.965 degrees longitude to an upper point located at 44.863 degrees latitude, and –118.823 degrees longitude. Granite Creek from a lower point located at 44.866 degrees latitude, and –118.56 degrees longitude to an upper point located at 44.857 degrees latitude, and –118.342 degrees longitude. Lightning Creek from a lower point located at 44.765 degrees latitude, and –118.496 degrees longitude to an upper point located at 44.718 degrees latitude, and –118.493 degrees longitude. North Fork Desolation Creek from a lower point located at 44.82 degrees latitude, and –118.688 degrees longitude to an upper point located at 44.773 degrees latitude, and –118.625 degrees longitude. North Fork John Day River from a lower point located at 44.755 degrees latitude, and –119.638 degrees longitude to an upper point located at 44.867 degrees latitude, and –118.238 degrees longitude. Onion Creek from a lower point located at

44.913 degrees latitude, and –118.4 degrees longitude to an upper point located at 44.889 degrees latitude, and –118.338 degrees longitude. Salmon Creek from a lower point located at 44.725 degrees latitude, and –118.502 degrees longitude to an upper point located at 44.717 degrees latitude, and –118.541 degrees longitude. South Fork Desolation Creek from a lower point located at 44.82 degrees latitude, and –118.688 degrees longitude to an upper point located at 44.719 degrees latitude, and –118.621 degrees longitude. South Trail Creek from a lower point located at 44.937 degrees latitude, and –118.389 degrees longitude to an upper point located at 44.953 degrees latitude, and –118.272 degrees longitude. Trail Creek from a lower point located at 44.916 degrees latitude, and –118.405 degrees longitude to an upper point located at 44.937 degrees latitude, and –118.389 degrees longitude. West Fork Clear Creek from a lower point located at 44.758 degrees latitude, and –118.509 degrees longitude to an upper point located at 44.733 degrees latitude, and –118.583 degrees longitude. West Fork Meadow Brook from a lower point located at 44.969 degrees latitude, and –118.965 degrees longitude to an upper point located at 44.998 degrees latitude, and –118.944 degrees longitude. Winom Creek from a lower point located at 44.977 degrees latitude, and –118.671 degrees longitude to an upper point located at 45.05 degrees latitude, and –118.61 degrees longitude.

(iii) Big Boulder Creek from a lower point located at 44.666 degrees latitude, and –118.715 degrees longitude to an upper point located at 44.749 degrees latitude, and –118.682 degrees longitude. Big Creek from a lower point located at 44.766 degrees latitude, and –118.873 degrees longitude to an upper point located at 44.765 degrees latitude, and –118.685 degrees longitude. Butte Creek from a lower point located at 44.642 degrees latitude, and –118.651 degrees longitude to an upper point located at 44.586 degrees latitude, and –118.643 degrees longitude. Clear Creek from a lower point located at 44.594 degrees latitude, and –118.507 degrees longitude to an upper point located at 44.447 degrees latitude, and –118.43 degrees longitude. Davis Creek from a lower point located at 44.607 degrees latitude, and –118.544 degrees longitude to an upper point located at 44.57 degrees latitude, and –118.621 degrees longitude. Deadwood Creek from a lower point located at 44.768 degrees latitude, and –118.792 degrees longitude to an upper point located at 44.75 degrees latitude, and –118.718

degrees longitude. Granite Boulder Creek from a lower point located at 44.648 degrees latitude, and – 118.664 degrees longitude to an upper point located at 44.726 degrees latitude, and – 118.61 degrees longitude. Indian Creek from a lower point located at 44.798 degrees latitude, and – 118.91 degrees longitude to an upper point located at 44.802 degrees latitude, and – 118.746 degrees longitude. Middle Fork John Day River from a lower point located at 44.917 degrees latitude, and

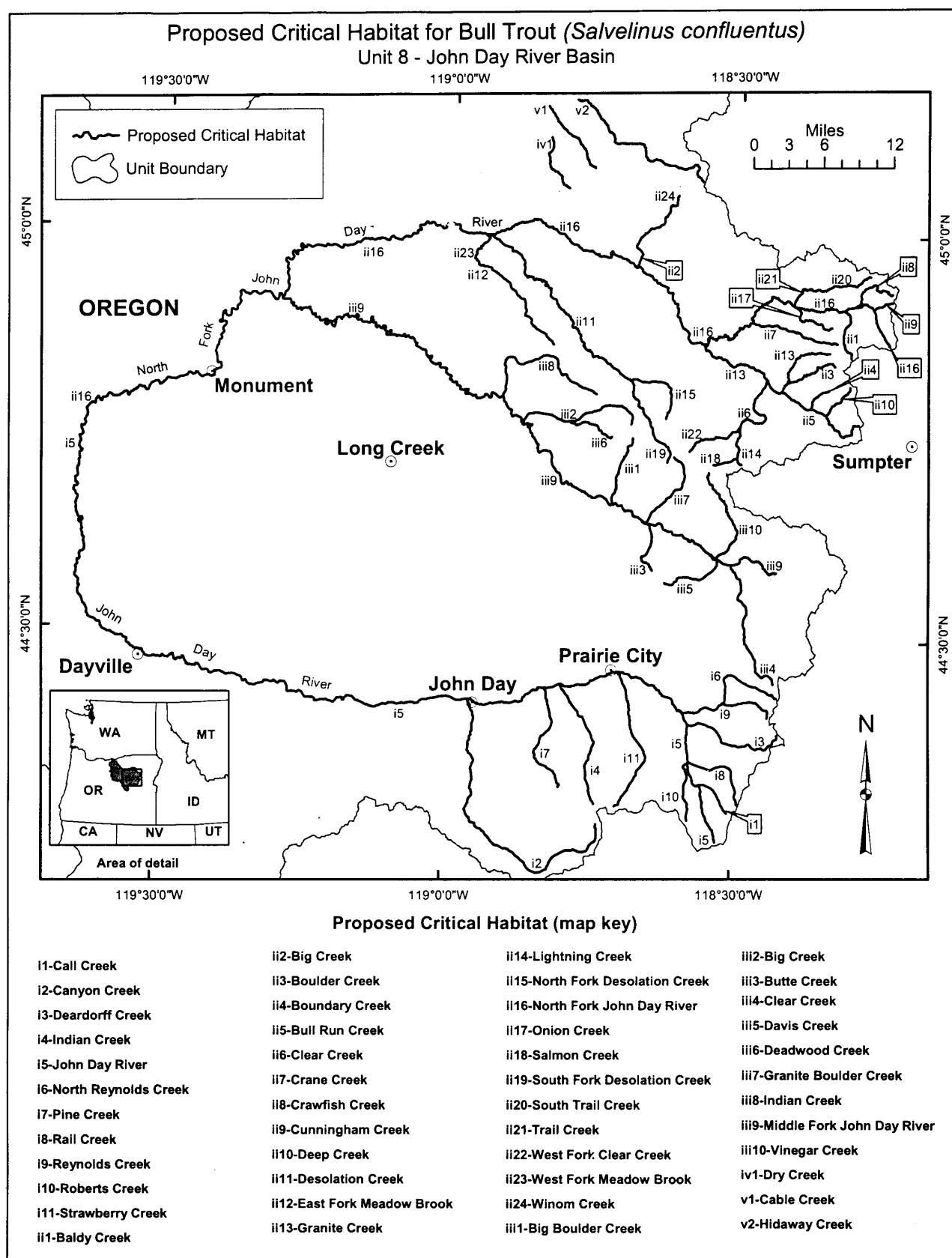
– 119.3 degrees longitude to an upper point located at 44.585 degrees latitude, and – 118.429 degrees longitude. Vinegar Creek from a lower point located at 44.601 degrees latitude, and – 118.535 degrees longitude to an upper point located at 44.707 degrees latitude, and – 118.549 degrees longitude.

(iv) Dry Creek from a lower point located at 45.119 degrees latitude, and – 118.835 degrees longitude to an upper point located at 45.057 degrees latitude, and – 118.802 degrees longitude.

(v) Cable Creek from a lower point located at 45.158 degrees latitude, and – 118.841 degrees longitude to an upper point located at 45.083 degrees latitude, and – 118.758 degrees longitude. Hidaway Creek from a lower point located at 45.166 degrees latitude, and – 118.791 degrees longitude to an upper point located at 45.067 degrees latitude, and – 118.569 degrees longitude.

**Note:** Map follows for Unit 8.

**BILLING CODE 4310-55-P**



(13) Unit 9—Umatilla-Walla Walla River Basins.

(i) Critical Habitat Subunit—Umatilla.

(A) Ryan Creek from a lower point located at 45.723 degrees latitude, and -118.314 degrees longitude to an upper point located at 45.694 degrees latitude, and -118.308 degrees longitude. Squaw Creek from a lower point located at 45.7 degrees latitude, and -118.4 degrees longitude to an upper point located at 45.655 degrees latitude, and -118.401 degrees longitude. Umatilla River from a lower point located at 45.923 degrees latitude, and -119.356 degrees longitude to an upper point located at 45.726 degrees latitude, and -118.187 degrees longitude.

(B) East Meacham Creek from a lower point located at 45.486 degrees latitude, and -118.273 degrees longitude to an upper point located at 45.479 degrees latitude, and -118.231 degrees longitude. Meacham Creek from a lower point located at 45.702 degrees latitude, and -118.359 degrees longitude to an upper point located at 45.491 degrees latitude, and -118.326 degrees longitude. North Fork Meacham Creek from a lower point located at 45.527 degrees latitude, and -118.29 degrees longitude to an upper point located at 45.571 degrees latitude, and -118.138 degrees longitude. Pot Creek from a lower point located at 45.554 degrees latitude, and -118.2 degrees longitude to an upper point located at 45.523 degrees latitude, and -118.162 degrees longitude.

(C) Coyote Creek from a lower point located at 45.732 degrees latitude, and -118.138 degrees longitude to an upper point located at 45.746 degrees latitude, and -118.136 degrees longitude. North Fork Umatilla River from a lower point located at 45.726 degrees latitude, and -118.187 degrees longitude to an upper point located at 45.705 degrees latitude, and -118.033 degrees longitude.

Woodward Creek from a lower point located at 45.736 degrees latitude, and -118.079 degrees longitude to an upper point located at 45.75 degrees latitude, and -118.075 degrees longitude.

(D) Buck Creek from a lower point located at 45.719 degrees latitude, and -118.188 degrees longitude to an upper point located at 45.686 degrees latitude, and -118.087 degrees longitude.

Shimmiehorn Creek from a lower point located at 45.675 degrees latitude, and -118.218 degrees longitude to an upper point located at 45.598 degrees latitude, and -118.186 degrees longitude. South Fork Umatilla River from a lower point located at 45.726 degrees latitude, and -118.187 degrees longitude to an upper point located at 45.598 degrees latitude, and -118.219 degrees longitude. Spring

Creek from a lower point located at 45.665 degrees latitude, and -118.171 degrees longitude to an upper point located at 45.601 degrees latitude, and -118.139 degrees longitude. Thomas Creek from a lower point located at 45.688 degrees latitude, and -118.204 degrees longitude to an upper point located at 45.668 degrees latitude, and -118.125 degrees longitude.

(ii) Critical Habitat Subunit—Walla Walla.

(A) Walla Walla River from a lower point located at 46.039 degrees latitude, and -118.478 degrees longitude to an upper point located at 45.899 degrees latitude, and -118.307 degrees longitude.

(B) North Fork Walla Walla River from a lower point located at 45.899 degrees latitude, and -118.307 degrees longitude to an upper point located at 45.947 degrees latitude, and -117.99 degrees longitude.

(C) Husky Spring Creek from a lower point located at 45.884 degrees latitude, and -117.977 degrees longitude to an upper point located at 45.889 degrees latitude, and -117.951 degrees longitude. Reser Creek from a lower point located at 45.876 degrees latitude, and -117.985 degrees longitude to an upper point located at 45.899 degrees latitude, and -118.017 degrees longitude. Skiphorton Creek from a lower point located at 45.852 degrees latitude, and -118.024 degrees longitude to an upper point located at 45.875 degrees latitude, and -118.026 degrees longitude. South Fork Walla Walla River from a lower point located at 45.899 degrees latitude, and -118.307 degrees longitude to an upper point located at 45.966 degrees latitude, and -117.963 degrees longitude.

(D) Bull Creek from a lower point located at 46.028 degrees latitude, and -117.946 degrees longitude to an upper point located at 46.027 degrees latitude, and -117.938 degrees longitude. Burnt Fork Creek from a lower point located at 46.032 degrees latitude, and -117.952 degrees longitude to an upper point located at 46.044 degrees latitude, and -117.944 degrees longitude. Deadman Creek from a lower point located at 46.032 degrees latitude, and -117.955 degrees longitude to an upper point located at 46.036 degrees latitude, and -117.952 degrees longitude. Garrison Creek from a lower point located at 46.026 degrees latitude, and -118.433 degrees longitude to an upper point located at 46.075 degrees latitude, and -118.273 degrees longitude. Green Fork Creek from a lower point located at 46.029 degrees latitude, and -117.948 degrees longitude to an upper point located at 46.031 degrees latitude, and

-117.939 degrees longitude. Low Creek from a lower point located at 45.993 degrees latitude, and -118.035 degrees longitude to an upper point located at 45.973 degrees latitude, and -118.009 degrees longitude. Mill Creek from a lower point located at 46.039 degrees latitude, and -118.478 degrees longitude to an upper point located at 46.011 degrees latitude, and -117.941 degrees longitude. North Fork Mill Creek from a lower point located at 46.022 degrees latitude, and -117.995 degrees longitude to an upper point located at 46.028 degrees latitude, and -117.995 degrees longitude. Paradise Creek from a lower point located at 46.004 degrees latitude, and -118.017 degrees longitude to an upper point located at 46.001 degrees latitude, and -117.99 degrees longitude. Yellowhawk Creek from a lower point located at 46.017 degrees latitude, and -118.4 degrees longitude to an upper point located at 46.077 degrees latitude, and -118.272 degrees longitude.

(E) Touchet River from a lower point located at 46.272 degrees latitude, and -118.174 degrees longitude to an upper point located at 46.302 degrees latitude, and -117.959 degrees longitude.

(F) Lewis Creek from a lower point located at 46.191 degrees latitude, and -117.824 degrees longitude to an upper point located at 46.156 degrees latitude, and -117.771 degrees longitude. North Fork Touchet River from a lower point located at 46.302 degrees latitude, and -117.959 degrees longitude to an upper point located at 46.093 degrees latitude, and -117.864 degrees longitude. Robinson Creek from a lower point located at 46.238 degrees latitude, and -117.895 degrees longitude to an upper point located at 46.097 degrees latitude, and -117.903 degrees longitude. Spangler Creek from a lower point located at 46.149 degrees latitude, and -117.806 degrees longitude to an upper point located at 46.099 degrees latitude, and -117.802 degrees longitude. Wolf Fork Creek from a lower point located at 46.274 degrees latitude, and -117.895 degrees longitude to an upper point located at 46.075 degrees latitude, and -117.903 degrees longitude.

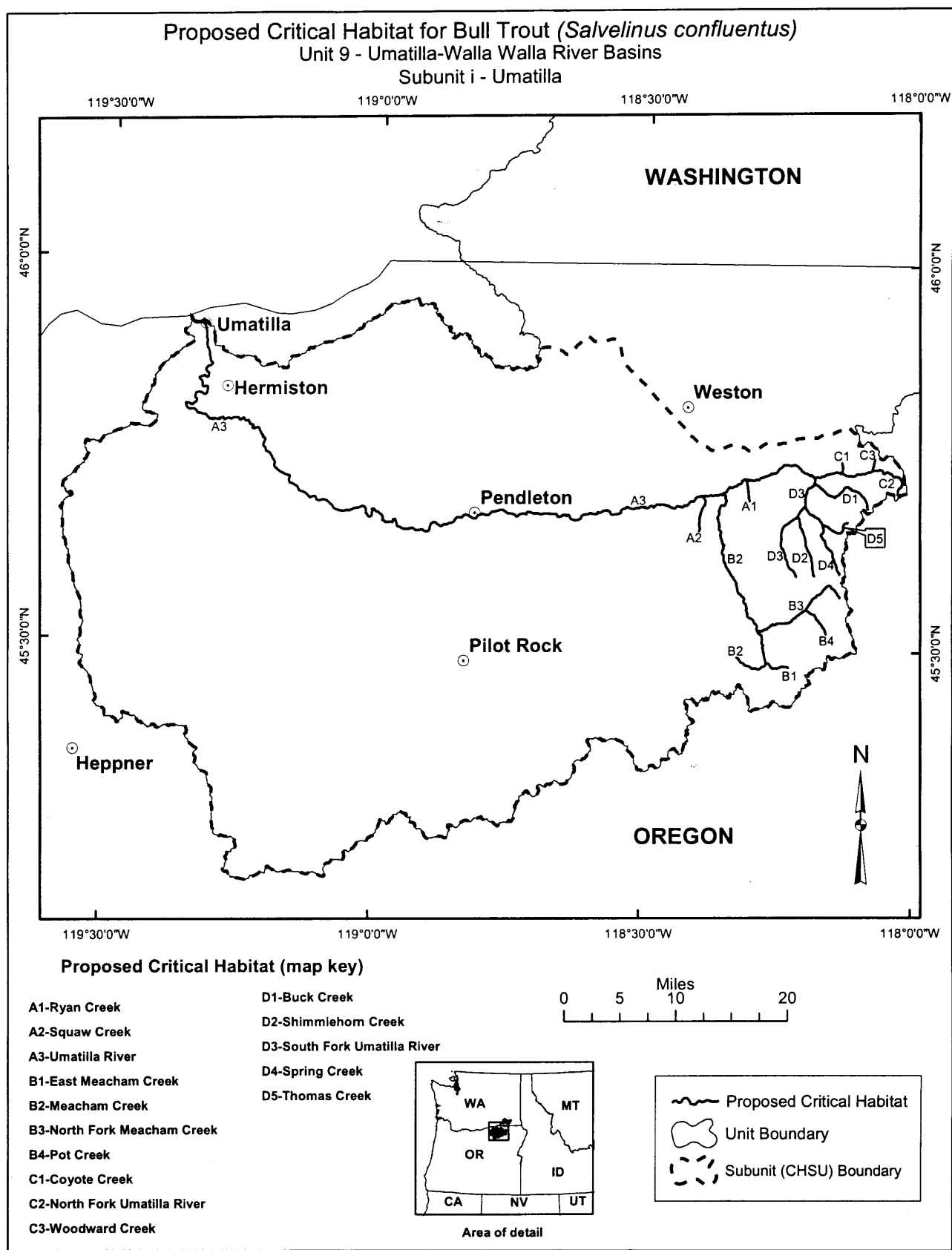
(G) Burnt Fork from a lower point located at 46.105 degrees latitude, and -117.985 degrees longitude to an upper point located at 46.087 degrees latitude, and -117.94 degrees longitude. Griffin Fork from a lower point located at 46.121 degrees latitude, and -117.973 degrees longitude to an upper point located at 46.099 degrees latitude, and -117.913 degrees longitude. South Fork Touchet River from a lower point located at 46.302 degrees latitude, and -117.959 degrees longitude to an upper point located at 46.105 degrees latitude,

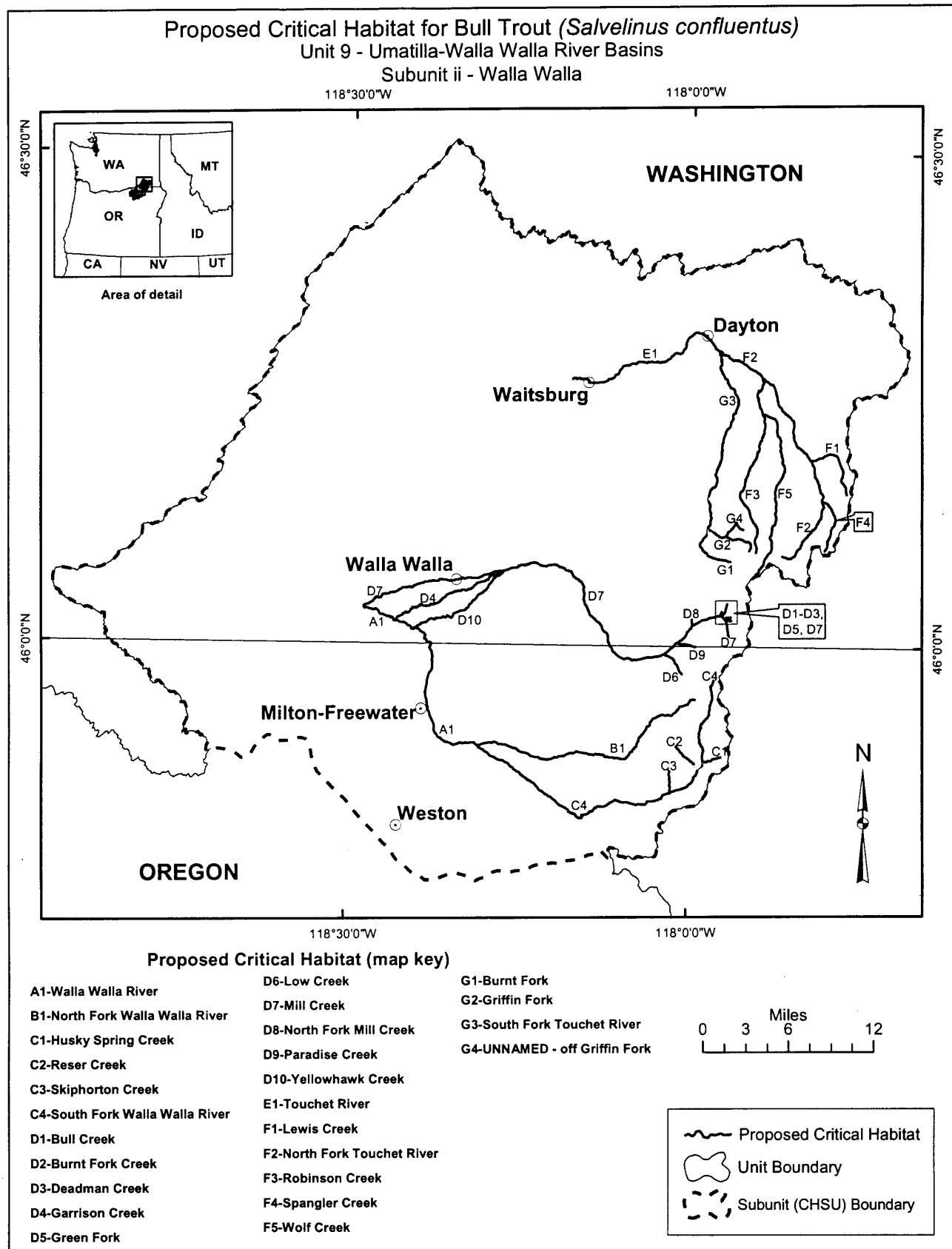
and -117.985 degrees longitude.  
Unnamed creek off Griffin Fork from a  
lower point located at 46.113 degrees  
latitude, and -117.948 degrees longitude

to an upper point located at 46.12  
degrees latitude, and -117.922 degrees  
longitude.

**Note:** Maps follow for Unit 9, Subunit i and  
Unit 9, Subunit ii.

**BILLING CODE 4310-55-P**







(14) Unit 10—Grande Ronde River Basin.

(i) Grande Ronde River from a lower point located at 46.08 degrees latitude, and -116.978 degrees longitude to an upper point located at 44.967 degrees latitude, and -118.254 degrees longitude.

(ii) Beaver Creek from a lower point located at 45.955 degrees latitude, and -117.785 degrees longitude to an upper point located at 45.969 degrees latitude, and -117.807 degrees longitude. Butte Creek from a lower point located at 45.982 degrees latitude, and -117.678 degrees longitude to an upper point located at 46.063 degrees latitude, and -117.722 degrees longitude. Crooked Creek from a lower point located at 45.977 degrees latitude, and -117.551 degrees longitude to an upper point located at 46.046 degrees latitude, and -117.624 degrees longitude. First Creek from a lower point located at 46.035 degrees latitude, and -117.57 degrees longitude to an upper point located at 46.043 degrees latitude, and -117.546 degrees longitude. Milk Creek from a lower point located at 45.913 degrees latitude, and -117.882 degrees longitude to an upper point located at 45.948 degrees latitude, and -117.912 degrees longitude. North Fork Wenaha River from a lower point located at 45.951 degrees latitude, and -117.794 degrees longitude to an upper point located at 46.066 degrees latitude, and -117.877 degrees longitude. South Fork Wenaha River from a lower point located at 45.951 degrees latitude, and -117.794 degrees longitude to an upper point located at 45.89 degrees latitude, and -117.905 degrees longitude. Third Creek from a lower point located at 46.046 degrees latitude, and -117.624 degrees longitude to an upper point located at 46.089 degrees latitude, and -117.627 degrees longitude. Wenaha River from a lower point located at 45.946 degrees latitude, and -117.45 degrees longitude to an upper point located at 45.951 degrees latitude, and -117.794 degrees longitude. West Fork Butte Creek from a lower point located at 46.063 degrees latitude, and -117.722 degrees longitude to an upper point located at 46.065 degrees latitude, and -117.778 degrees longitude.

(iii) Little Lookingglass Creek from a lower point located at 45.75 degrees latitude, and -117.874 degrees longitude to an upper point located at 45.817 degrees latitude, and -117.901 degrees longitude. Lookingglass Creek from a lower point located at 45.707 degrees latitude, and -117.841 degrees longitude to an upper point located at 45.779 degrees latitude, and -118.078 degrees longitude. Mottet Creek from a lower

point located at 45.767 degrees latitude, and -117.886 degrees longitude to an upper point located at 45.788 degrees latitude, and -117.942 degrees longitude. Summer Creek from a lower point located at 45.767 degrees latitude, and -117.982 degrees longitude to an upper point located at 45.772 degrees latitude, and -117.982 degrees longitude.

(iv) Camp Creek from a lower point located at 45.387 degrees latitude, and -117.757 degrees longitude to an upper point located at 45.387 degrees latitude, and -117.744 degrees longitude. East Fork Indian Creek from a lower point located at 45.369 degrees latitude, and -117.748 degrees longitude to an upper point located at 45.353 degrees latitude, and -117.724 degrees longitude. Indian Creek from a lower point located at 45.534 degrees latitude, and -117.919 degrees longitude to an upper point located at 45.337 degrees latitude, and -117.721 degrees longitude.

(v) Catherine Creek from a lower point located at 45.408 degrees latitude, and -117.93 degrees longitude to an upper point located at 45.12 degrees latitude, and -117.646 degrees longitude. Collins Creek from a lower point located at 45.106 degrees latitude, and -117.542 degrees longitude to an upper point located at 45.097 degrees latitude, and -117.513 degrees longitude. Middle Fork Catherine Creek from a lower point located at 45.152 degrees latitude, and -117.616 degrees longitude to an upper point located at 45.154 degrees latitude, and -117.564 degrees longitude. North Fork Catherine Creek from a lower point located at 45.12 degrees latitude, and -117.646 degrees longitude to an upper point located at 45.225 degrees latitude, and -117.604 degrees longitude. Pole Creek from a lower point located at 45.107 degrees latitude, and -117.559 degrees longitude to an upper point located at 45.138 degrees latitude, and -117.522 degrees longitude. Sand Pass Creek from a lower point located at 45.108 degrees latitude, and -117.551 degrees longitude to an upper point located at 45.129 degrees latitude, and -117.512 degrees longitude. South Fork Catherine Creek from a lower point located at 45.12 degrees latitude, and -117.646 degrees longitude to an upper point located at 45.112 degrees latitude, and -117.513 degrees longitude.

(vi) Chicken Creek from a lower point located at 45.095 degrees latitude, and -118.394 degrees longitude to an upper point located at 45.024 degrees latitude, and -118.385 degrees longitude. Clear Creek from a lower point located at 45.063 degrees latitude, and -118.309 degrees longitude to an upper point located at 44.976 degrees latitude, and

-118.326 degrees longitude. East Sheep Creek from a lower point located at 45.026 degrees latitude, and -118.474 degrees longitude to an upper point located at 44.983 degrees latitude, and 118.425 degrees longitude. Fiddlers Hell Creek from a lower point located at 45.428 degrees latitude, and -118.159 degrees longitude to an upper point located at 45.431 degrees latitude, and -118.143 degrees longitude. Five Points Creek from a lower point located at 45.347 degrees latitude, and -118.221 degrees longitude to an upper point located at 45.481 degrees latitude, and -118.143 degrees longitude. Fly Creek from a lower point located at 45.21 degrees latitude, and -118.394 degrees longitude to an upper point located at 45.121 degrees latitude, and -118.465 degrees longitude. Indiana Creek from a lower point located at 45.024 degrees latitude, and -118.385 degrees longitude to an upper point located at 45 degrees latitude, and -118.361 degrees longitude. Limber Jim Creek from a lower point located at 45.089 degrees latitude, and -118.343 degrees longitude to an upper point located at 45.085 degrees latitude, and -118.229 degrees longitude. Little Fly Creek from a lower point located at 45.121 degrees latitude, and -118.465 degrees longitude to an upper point located at 45.11 degrees latitude, and -118.475 degrees longitude. Lookout Creek from a lower point located at 45.11 degrees latitude, and -118.475 degrees longitude to an upper point located at 45.078 degrees latitude, and -118.54 degrees longitude. Marion Creek from a lower point located at 45.106 degrees latitude, and -118.266 degrees longitude to an upper point located at 45.097 degrees latitude, and -118.228 degrees longitude. Middle Fork Five Points Creek from a lower point located at 45.481 degrees latitude, and -118.143 degrees longitude to an upper point located at 45.492 degrees latitude, and -118.115 degrees longitude. Mt Emily Creek from a lower point located at 45.473 degrees latitude, and -118.146 degrees longitude to an upper point located at 45.465 degrees latitude, and -118.124 degrees longitude. Sheep Creek from a lower point located at 45.095 degrees latitude, and -118.394 degrees longitude to an upper point located at 45.016 degrees latitude, and -118.507 degrees longitude. Sheep Creek from a lower point located at 45.105 degrees latitude, and -118.381 degrees longitude to an upper point located at 45.095 degrees latitude, and -118.394 degrees longitude. Tie Creek from a lower point located at 45.423 degrees latitude, and -118.158 degrees longitude to an upper

point located at 45.421 degrees latitude, and –118.148 degrees longitude. Unnamed creek off Clear Creek from a lower point located at 45.013 degrees latitude, and –118.329 degrees longitude to an upper point located at 44.977 degrees latitude, and –118.313 degrees longitude.

(vii) Wallowa River from a lower point located at 45.726 degrees latitude, and –117.784 degrees longitude to an upper point located at 45.42 degrees latitude, and –117.301 degrees longitude.

(viii) East Fork Elk Creek from a lower point located at 45.166 degrees latitude, and –117.469 degrees longitude to an upper point located at 45.161 degrees latitude, and –117.468 degrees longitude. Elk Creek from a lower point located at 45.178 degrees latitude, and –117.459 degrees longitude to an upper point located at 45.16 degrees latitude, and –117.475 degrees longitude. Minam River from a lower point located at 45.621 degrees latitude, and –117.72 degrees longitude to an upper point located at 45.148 degrees latitude, and –117.371 degrees longitude. North Minam River from a lower point located at 45.273 degrees latitude, and –117.536 degrees longitude to an upper

point located at 45.277 degrees latitude, and –117.511 degrees longitude.

(ix) Boulder Creek from a lower point located at 45.312 degrees latitude, and –117.632 degrees longitude to an upper point located at 45.31 degrees latitude, and –117.624 degrees longitude. Dobbin Creek from a lower point located at 45.259 degrees latitude, and –117.653 degrees longitude to an upper point located at 45.221 degrees latitude, and –117.639 degrees longitude. Little Minam River from a lower point located at 45.401 degrees latitude, and –117.671 degrees longitude to an upper point located at 45.246 degrees latitude, and –117.599 degrees longitude.

(x) Deer Creek from a lower point located at 45.62 degrees latitude, and –117.699 degrees longitude to an upper point located at 45.423 degrees latitude, and –117.587 degrees longitude. Sage Creek from a lower point located at 45.501 degrees latitude, and –117.606 degrees longitude to an upper point located at 45.481 degrees latitude, and –117.592 degrees longitude.

(xi) Bear Creek from a lower point located at 45.584 degrees latitude, and –117.54 degrees longitude to an upper point located at 45.323 degrees latitude, and –117.48 degrees longitude. Goat Creek from a lower point located at

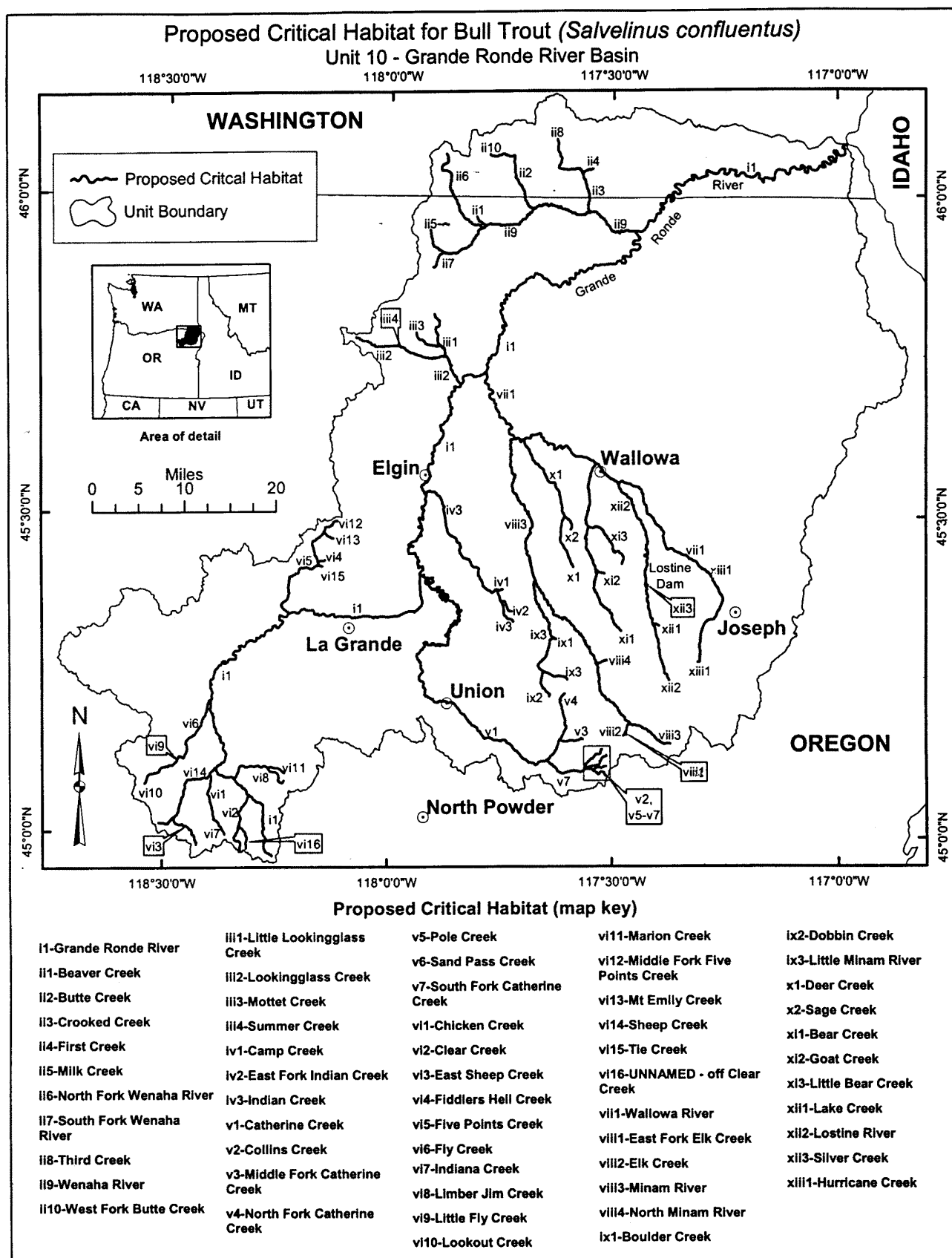
45.418 degrees latitude, and –117.537 degrees longitude to an upper point located at 45.413 degrees latitude, and –117.517 degrees longitude. Little Bear Creek from a lower point located at 45.485 degrees latitude, and –117.554 degrees longitude to an upper point located at 45.428 degrees latitude, and –117.479 degrees longitude.

(xii) Lake Creek from a lower point located at 45.332 degrees latitude, and –117.409 degrees longitude to an upper point located at 45.331 degrees latitude, and –117.397 degrees longitude. Lostine River from a lower point located at 45.552 degrees latitude, and –117.489 degrees longitude to an upper point located at 45.246 degrees latitude, and –117.374 degrees longitude. Silver Creek from a lower point located at 45.396 degrees latitude, and –117.427 degrees longitude to an upper point located at 45.394 degrees latitude, and –117.421 degrees longitude.

(xiii) Hurricane Creek from a lower point located at 45.42 degrees latitude, and –117.301 degrees longitude to an upper point located at 45.274 degrees latitude, and –117.31 degrees longitude.

**Note:** Map follows for Unit 10.

**BILLING CODE 4310-55-P**



(15) Unit 11—Imnaha-Snake River Basins.

(i) Critical Habitat Subunit—Snake River.

(A) Sheep Creek from a lower point located at 45.468 degrees latitude, and –116.554 degrees longitude to an upper point located at 45.405 degrees latitude, and –116.523 degrees longitude.

(B) Granite Creek from a lower point located at 45.349 degrees latitude, and –116.654 degrees longitude to an upper point located at 45.263 degrees latitude, and –116.611 degrees longitude.

(ii) Critical Habitat Subunit—Imnaha River.

(A) Bear Creek from a lower point located at 45.104 degrees latitude, and –117.171 degrees longitude to an upper point located at 45.1 degrees latitude, and –117.172 degrees longitude. Blue Creek from a lower point located at 45.101 degrees latitude, and –117.194 degrees longitude to an upper point located at 45.097 degrees latitude, and –117.193 degrees longitude. Cliff Creek from a lower point located at 45.102 degrees latitude, and –117.214 degrees longitude to an upper point located at 45.063 degrees latitude, and –117.267 degrees longitude. Imnaha River from a lower point located at 45.817 degrees latitude, and –116.764 degrees longitude

to an upper point located at 45.113 degrees latitude, and –117.125 degrees longitude. Middle Fork Imnaha River from a lower point located at 45.134 degrees latitude, and –117.151 degrees longitude to an upper point located at 45.139 degrees latitude, and –117.166 degrees longitude. North Fork Imnaha River from a lower point located at 45.113 degrees latitude, and –117.125 degrees longitude to an upper point located at 45.171 degrees latitude, and –117.2 degrees longitude. Soldier Creek from a lower point located at 45.109 degrees latitude, and –117.151 degrees longitude to an upper point located at 45.107 degrees latitude, and –117.154 degrees longitude. South Fork Imnaha River from a lower point located at 45.113 degrees latitude, and –117.125 degrees longitude to an upper point located at 45.111 degrees latitude, and –117.23 degrees longitude.

(B) Big Sheep Creek from a lower point located at 45.557 degrees latitude, and –116.834 degrees longitude to an upper point located at 45.178 degrees latitude, and –117.119 degrees longitude. Lick Creek from a lower point located at 45.198 degrees latitude, and –117.024 degrees longitude to an upper point located at 45.147 degrees latitude, and –117.123 degrees longitude. Middle

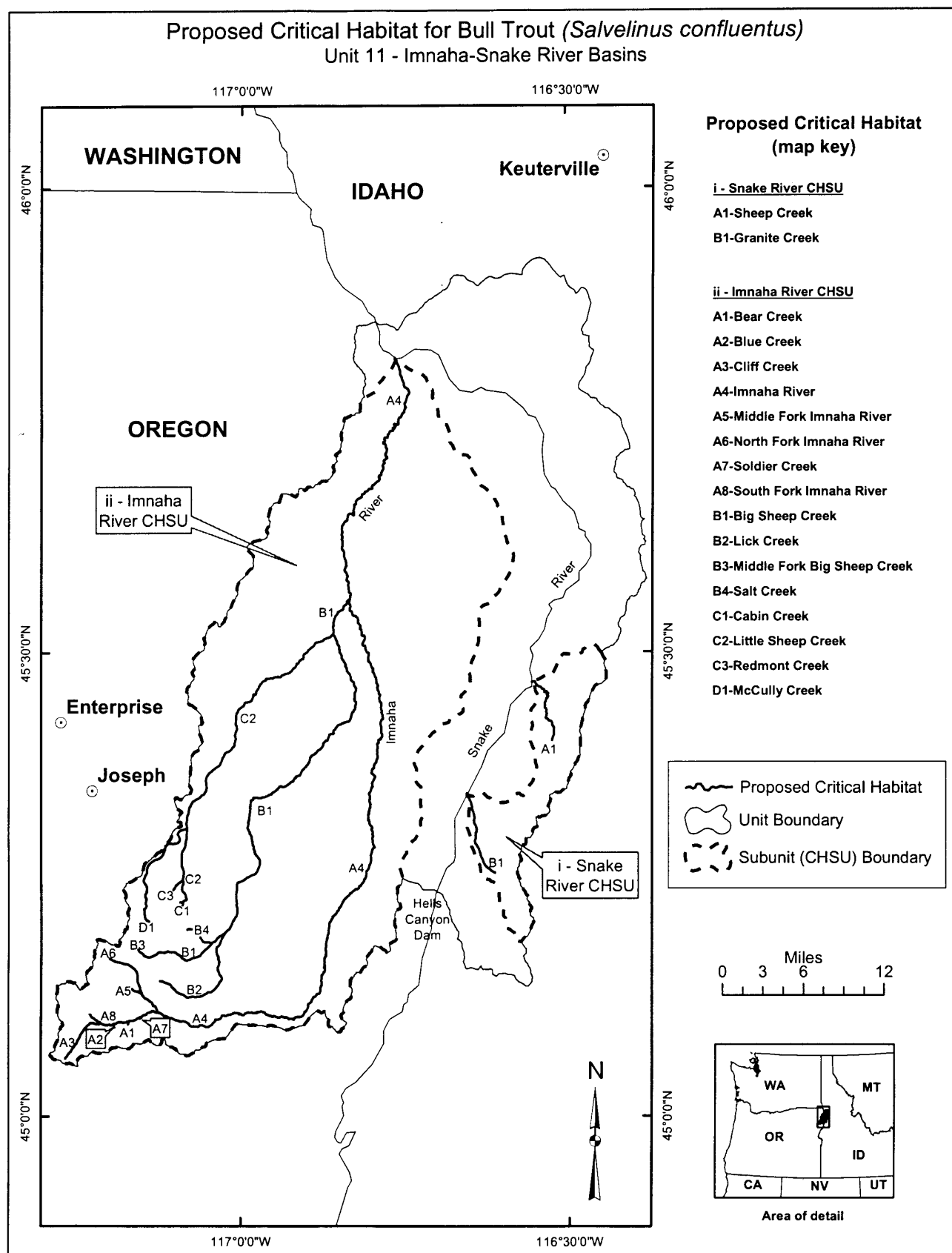
Fork Big Sheep Creek from a lower point located at 45.178 degrees latitude, and –117.119 degrees longitude to an upper point located at 45.181 degrees latitude, and –117.157 degrees longitude. Salt Creek from a lower point located at 45.188 degrees latitude, and –117.043 degrees longitude to an upper point located at 45.202 degrees latitude, and –117.082 degrees longitude.

(C) Cabin Creek from a lower point located at 45.232 degrees latitude, and –117.088 degrees longitude to an upper point located at 45.229 degrees latitude, and –117.089 degrees longitude. Little Sheep Creek from a lower point located at 45.52 degrees latitude, and –116.859 degrees longitude to an upper point located at 45.232 degrees latitude, and –117.093 degrees longitude. Redmont Creek from a lower point located at 45.256 degrees latitude, and –117.088 degrees longitude to an upper point located at 45.245 degrees latitude, and –117.103 degrees longitude.

(D) McCully Creek from a lower point located at 45.311 degrees latitude, and –117.082 degrees longitude to an upper point located at 45.211 degrees latitude, and –117.14 degrees longitude.

**Note:** Map follows for Unit 11.

**BILLING CODE 4310-55-C**



(16) Unit 12—Hells Canyon Complex.  
(i) Critical Habitat Subunit—Pine-Indian-Wildhorse.

(A) East Fork Pine Creek from a lower point located at 45.022 degrees latitude, and -117.2 degrees longitude to an upper point located at 45.072 degrees latitude, and -117.176 degrees longitude. Middle Fork Pine Creek from a lower point located at 45.039 degrees latitude, and -117.215 degrees longitude to an upper point located at 45.058 degrees latitude, and -117.237 degrees longitude. North Pine Creek from a lower point located at 44.91 degrees latitude, and -116.948 degrees longitude to an upper point located at 45.079 degrees latitude, and -116.897 degrees longitude. Pine Creek from a lower point located at 44.974 degrees latitude, and -116.853 degrees longitude to an upper point located at 45.039 degrees latitude, and -117.215 degrees longitude. West Fork Pine Creek from a lower point located at 45.039 degrees latitude, and -117.215 degrees longitude to an upper point located at 45.025 degrees latitude, and -117.246 degrees longitude.

(B) Aspen Creek from a lower point located at 45.057 degrees latitude, and -117.011 degrees longitude to an upper point located at 45.049 degrees latitude, and -117.037 degrees longitude. Big Elk Creek from a lower point located at 45.063 degrees latitude, and -117.023 degrees longitude to an upper point located at 45.061 degrees latitude, and -117.064 degrees longitude. Cabin Creek from a lower point located at 45.061 degrees latitude, and -117.02 degrees longitude to an upper point located at 45.077 degrees latitude, and -117.024 degrees longitude. Elk Creek from a lower point located at 45.009 degrees latitude, and -116.909 degrees longitude to an upper point located at 45.074 degrees latitude, and -117.045 degrees longitude. Fall Creek from a lower point located at 44.97 degrees latitude, and -116.948 degrees longitude to an upper point located at 45.012 degrees latitude, and -116.985 degrees longitude. Little Elk Creek from a lower point located at 44.955 degrees latitude, and -116.961 degrees longitude to an upper point located at 45.009 degrees latitude, and -117.028 degrees longitude.

(C) Lake Fork from a lower point located at 45.02 degrees latitude, and -116.941 degrees longitude to an upper point located at 45.067 degrees latitude, and -117.104 degrees longitude.

(D) Duck Creek from a lower point located at 45.069 degrees latitude, and -116.905 degrees longitude to an upper point located at 45.091 degrees latitude, and -117.003 degrees longitude. Fish Creek from a lower point located at

44.908 degrees latitude, and -116.952 degrees longitude to an upper point located at 45.036 degrees latitude, and -117.081 degrees longitude.

(E) East Fork of East Pine Creek from a lower point located at 45.021 degrees latitude, and -117.106 degrees longitude to an upper point located at 45.042 degrees latitude, and -117.103 degrees longitude. East Pine Creek from a lower point located at 44.872 degrees latitude, and -117.02 degrees longitude to an upper point located at 45.046 degrees latitude, and -117.119 degrees longitude. Okanogan Creek from a lower point located at 44.987 degrees latitude, and -117.064 degrees longitude to an upper point located at 45.017 degrees latitude, and -117.062 degrees longitude. Trinity Creek from a lower point located at 44.988 degrees latitude, and -117.071 degrees longitude to an upper point located at 45.026 degrees latitude, and -117.083 degrees longitude. Unnamed creek off East Pine Creek from a lower point located at 44.993 degrees latitude, and -117.101 degrees longitude to an upper point located at 45.006 degrees latitude, and -117.121 degrees longitude.

(F) Clear Creek from a lower point located at 44.866 degrees latitude, and -117.029 degrees longitude to an upper point located at 45.043 degrees latitude, and -117.143 degrees longitude. Meadow Creek from a lower point located at 44.99 degrees latitude, and -117.142 degrees longitude to an upper point located at 45.017 degrees latitude, and -117.171 degrees longitude. Trail Creek from a lower point located at 44.991 degrees latitude, and -117.142 degrees longitude to an upper point located at 45.046 degrees latitude, and -117.162 degrees longitude.

(G) Camp Creek from a lower point located at 45.132 degrees latitude, and -116.622 degrees longitude to an upper point located at 45.157 degrees latitude, and -116.62 degrees longitude. Indian Creek from a lower point located at 44.985 degrees latitude, and -116.828 degrees longitude to an upper point located at 45.15 degrees latitude, and -116.59 degrees longitude.

(H) Bear Creek from a lower point located at 44.959 degrees latitude, and -116.724 degrees longitude to an upper point located at 45.136 degrees latitude, and -116.524 degrees longitude. Lick Creek from a lower point located at 44.986 degrees latitude, and -116.679 degrees longitude to an upper point located at 45.105 degrees latitude, and -116.514 degrees longitude. Wildhorse River from a lower point located at 44.851 degrees latitude, and -116.896 degrees longitude to an upper point

located at 44.959 degrees latitude, and -116.724 degrees longitude.

(I) Crooked River from a lower point located at 44.959 degrees latitude, and -116.724 degrees longitude to an upper point located at 44.817 degrees latitude, and -116.742 degrees longitude.

(ii) Critical Habitat Subunit—Powder River.

(A) Powder River from a lower point located at 44.743 degrees latitude, and -117.046 degrees longitude to an upper point located at 44.742 degrees latitude, and -118.205 degrees longitude.

(B) Eagle Creek from a lower point located at 44.746 degrees latitude, and -117.169 degrees longitude to an upper point located at 45.132 degrees latitude, and -117.338 degrees longitude. East Fork Eagle Creek from a lower point located at 44.983 degrees latitude, and -117.37 degrees longitude to an upper point located at 45.171 degrees latitude, and -117.324 degrees longitude. West Eagle Creek from a lower point located at 45.019 degrees latitude, and -117.453 degrees longitude to an upper point located at 45.121 degrees latitude, and -117.436 degrees longitude.

(C) Wolf Creek from a lower point located at 45.044 degrees latitude, and -117.893 degrees longitude to an upper point located at 45.068 degrees latitude, and -118.193 degrees longitude.

(D) North Powder River from a lower point located at 45.039 degrees latitude, and -117.895 degrees longitude to an upper point located at 44.878 degrees latitude, and -118.203 degrees longitude.

(E) Anthony Creek from a lower point located at 45.013 degrees latitude, and -118.059 degrees longitude to an upper point located at 44.953 degrees latitude, and -118.22 degrees longitude. North Fork Anthony Creek from a lower point located at 45.045 degrees latitude, and -118.13 degrees longitude to an upper point located at 45.042 degrees latitude, and -118.23 degrees longitude.

(F) Indian Creek from a lower point located at 45.019 degrees latitude, and -118.154 degrees longitude to an upper point located at 44.976 degrees latitude, and -118.204 degrees longitude.

(G) Big Muddy Creek from a lower point located at 44.94 degrees latitude, and -117.945 degrees longitude to an upper point located at 44.899 degrees latitude, and -118.131 degrees longitude.

(H) Rock Creek from a lower point located at 44.918 degrees latitude, and -117.929 degrees longitude to an upper point located at 44.856 degrees latitude, and -118.124 degrees longitude.

(I) Salmon Creek from a lower point located at 44.888 degrees latitude, and -117.902 degrees longitude to an upper

point located at 44.767 degrees latitude, and -118.019 degrees longitude.

(J) Pine Creek from a lower point located at 44.849 degrees latitude, and -117.893 degrees longitude to an upper point located at 44.826 degrees latitude, and -118.078 degrees longitude.

(K) Deer Creek from a lower point located at 44.684 degrees latitude, and -118.059 degrees longitude to an upper point located at 44.75 degrees latitude, and -118.107 degrees longitude. Lake Creek from a lower point located at 44.75 degrees latitude, and -118.107

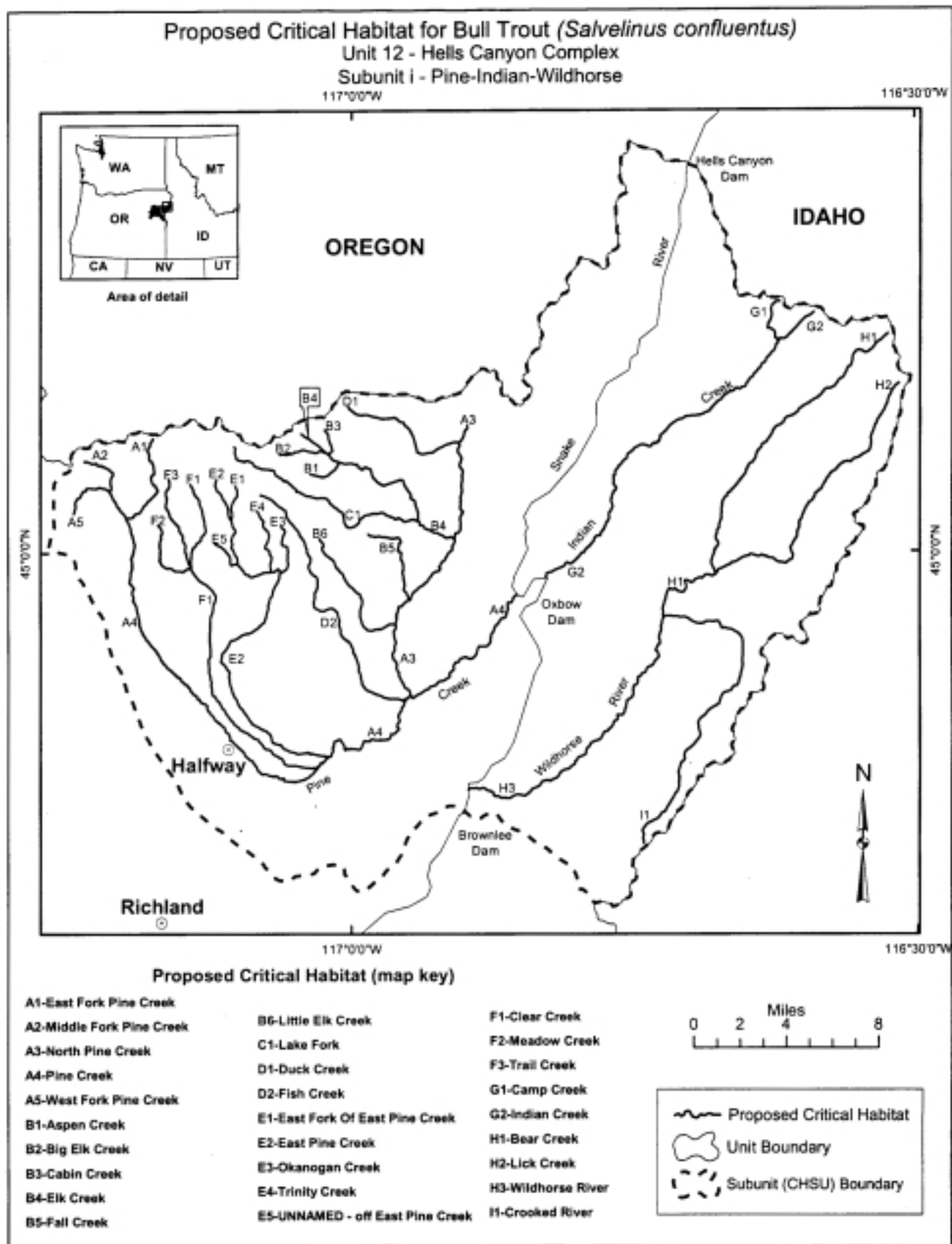
degrees longitude to an upper point located at 44.81 degrees latitude, and -118.091 degrees longitude.

(L) Cracker Creek from a lower point located at 44.742 degrees latitude, and -118.205 degrees longitude to an upper point located at 44.846 degrees latitude, and -118.204 degrees longitude. Fruit Creek from a lower point located at 44.809 degrees latitude, and -118.211 degrees longitude to an upper point located at 44.859 degrees latitude, and -118.247 degrees longitude. Little Cracker Creek from a lower point

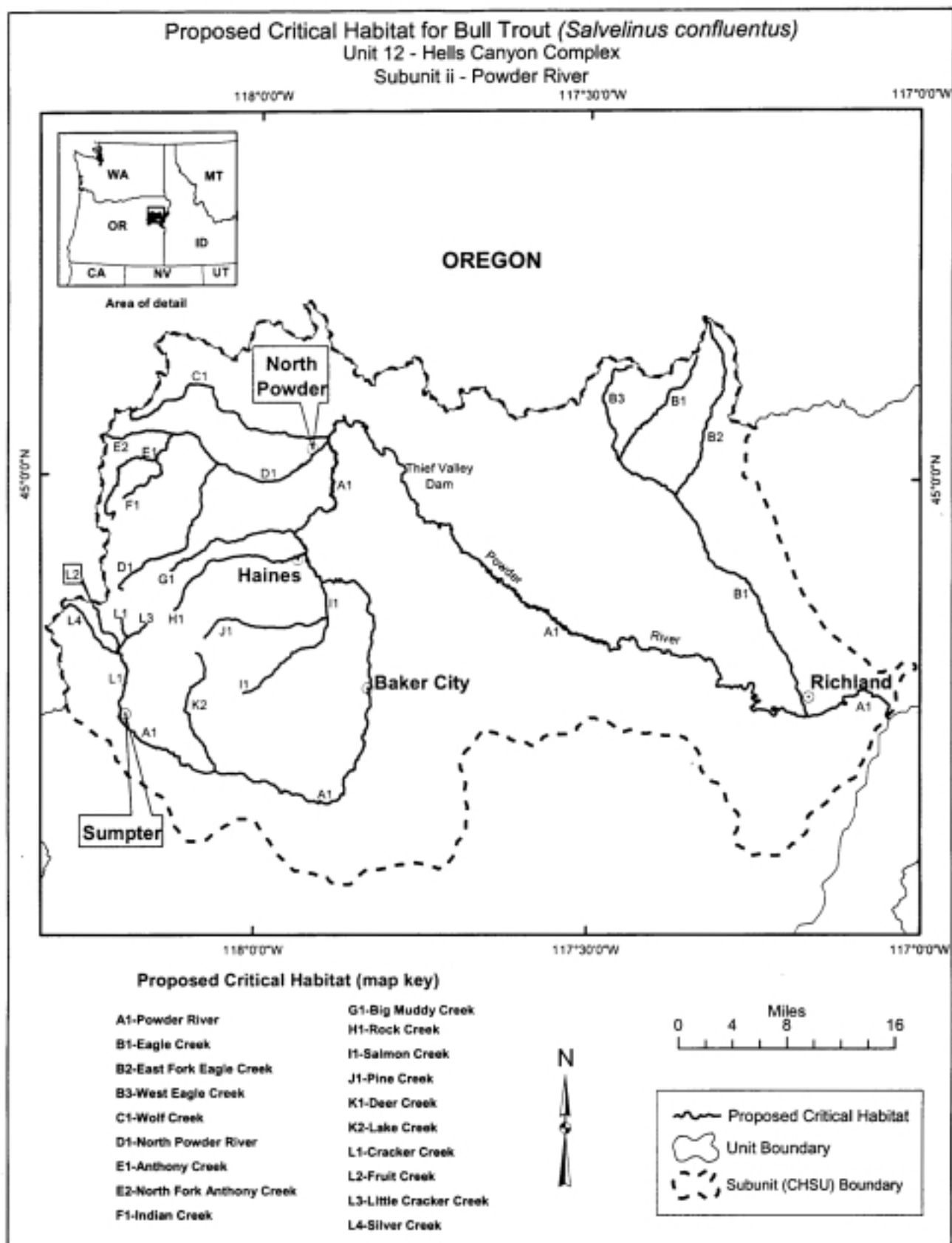
located at 44.826 degrees latitude, and -118.196 degrees longitude to an upper point located at 44.84 degrees latitude, and -118.166 degrees longitude. Silver Creek from a lower point located at 44.809 degrees latitude, and -118.207 degrees longitude to an upper point located at 44.857 degrees latitude, and -118.291 degrees longitude.

**Note:** Maps follow for Unit 12, Subunit i and Unit 12, Subunit ii.

**BILLING CODE 4310-55-P**







## (17) Unit 13—Malheur River Basin.

(i) Malheur River from a lower point located at 43.686 degrees latitude, and – 118.27 degrees longitude to an upper point located at 44.145 degrees latitude, and – 118.624 degrees longitude. Warm Springs Reservoir centered at 43.616 degrees latitude, and – 118.237 degrees longitude.

(ii) Beulah Reservoir centered at 43.931 degrees latitude, and – 118.153 degrees longitude. Cow Creek from a lower point located at 44.283 degrees latitude, and – 118.396 degrees longitude to an upper point located at 44.29 degrees latitude, and – 118.461 degrees longitude. Flat Creek from a lower point located at 44.305 degrees latitude, and – 118.402 degrees longitude to an upper point located at 44.306 degrees latitude, and – 118.389 degrees longitude. Horseshoe Creek from a lower point located at 44.323 degrees latitude, and – 118.415 degrees longitude to an upper point located at 44.33 degrees latitude, and – 118.463 degrees longitude. North Fork Malheur River from a lower point located at 43.945 degrees latitude, and – 118.167 degrees longitude to an upper point located at 44.366 degrees latitude, and – 118.404 degrees longitude. Sheep Creek from a lower point located at 44.281 degrees latitude, and – 118.396 degrees longitude to an upper point located at 44.281 degrees latitude, and – 118.475 degrees longitude. Swamp Creek from a lower point located at 44.291 degrees latitude, and – 118.4 degrees longitude to an upper point located at 44.292 degrees latitude, and – 118.483 degrees longitude.

(iii) Crane Creek from a lower point located at 44.162 degrees latitude, and – 118.37 degrees longitude to an upper point located at 44.152 degrees latitude, and – 118.386 degrees longitude. Elk Creek from a lower point located at 44.25 degrees latitude, and – 118.391 degrees longitude to an upper point located at 44.245 degrees latitude, and – 118.408 degrees longitude. Little Crane Creek from a lower point located at 44.152 degrees latitude, and – 118.386 degrees longitude to an upper point located at 44.24 degrees latitude, and – 118.472 degrees longitude. Little Malheur River from a lower point located at 44.019 degrees latitude, and – 118.258 degrees longitude to an upper point located at 44.336 degrees latitude, and – 118.351 degrees longitude. North Fork Elk Creek from a lower point located at 44.245 degrees latitude, and – 118.408 degrees longitude to an upper point located at 44.274 degrees latitude, and – 118.487 degrees longitude. South Fork Elk Creek from a lower point located at 44.245 degrees latitude, and – 118.408 degrees longitude to an upper point located at 44.257 degrees latitude, and – 118.471 degrees longitude. Unnamed creek off Little Crane Creek from a lower point located at 44.219 degrees latitude, and – 118.422 degrees longitude to an upper point located at 44.214 degrees latitude, and – 118.453 degrees longitude.

(iv) Big Creek from a lower point located at 44.145 degrees latitude, and – 118.624 degrees longitude to an upper point located at 44.292 degrees latitude, and – 118.638 degrees longitude. Crooked Creek from a lower point

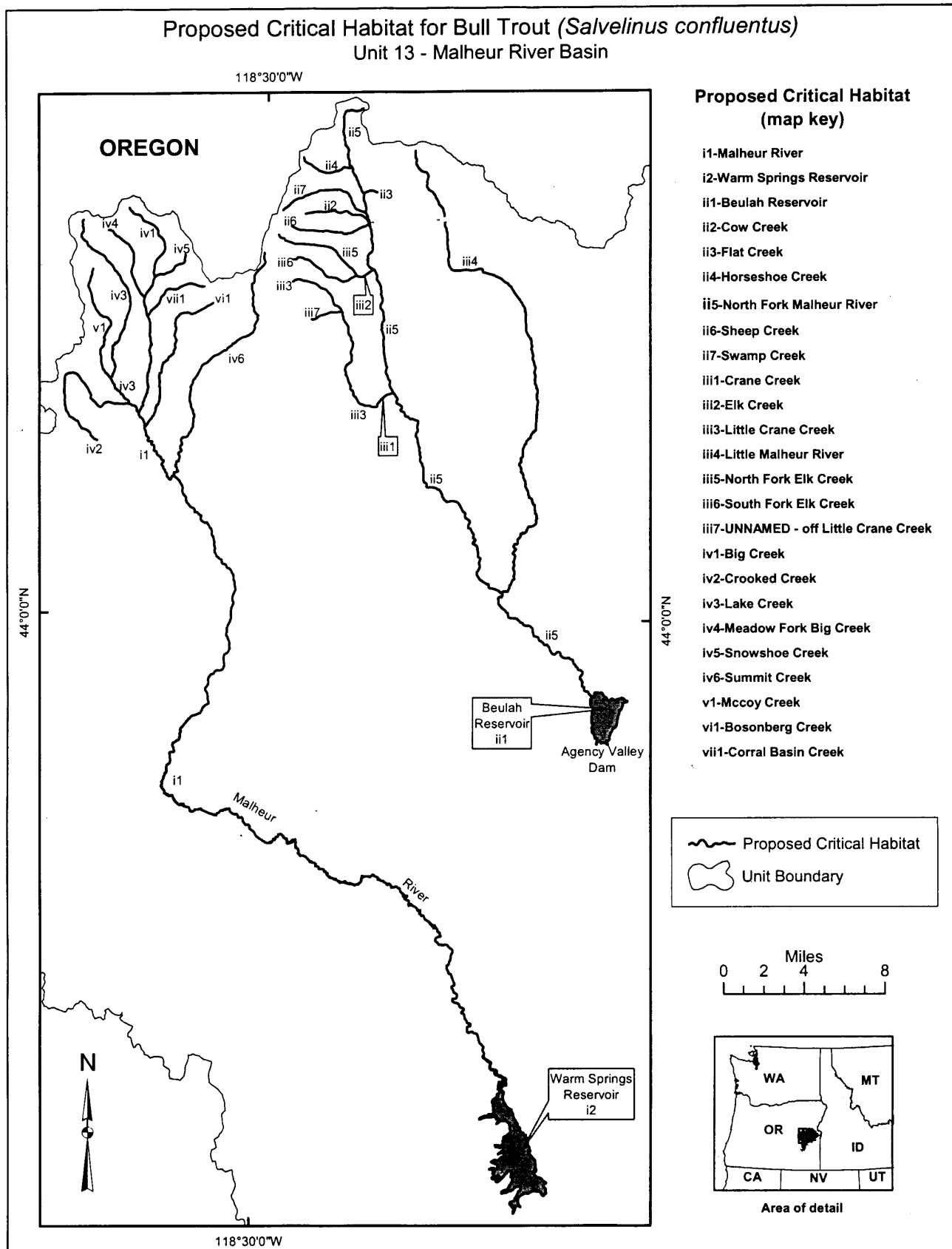
located at 44.151 degrees latitude, and – 118.634 degrees longitude to an upper point located at 44.125 degrees latitude, and – 118.665 degrees longitude. Lake Creek from a lower point located at 44.145 degrees latitude, and – 118.624 degrees longitude to an upper point located at 44.283 degrees latitude, and – 118.683 degrees longitude. Meadow Fork Big Creek from a lower point located at 44.228 degrees latitude, and – 118.621 degrees longitude to an upper point located at 44.276 degrees latitude, and – 118.658 degrees longitude. Snowshoe Creek from a lower point located at 44.242 degrees latitude, and – 118.611 degrees longitude to an upper point located at 44.259 degrees latitude, and – 118.58 degrees longitude. Summit Creek from a lower point located at 44.099 degrees latitude, and – 118.587 degrees longitude to an upper point located at 44.261 degrees latitude, and – 118.501 degrees longitude.

(v) McCoy Creek from a lower point located at 44.169 degrees latitude, and – 118.653 degrees longitude to an upper point located at 44.248 degrees latitude, and – 118.673 degrees longitude.

(vi) Bosonberg Creek from a lower point located at 44.135 degrees latitude, and – 118.618 degrees longitude to an upper point located at 44.224 degrees latitude, and – 118.551 degrees longitude.

(vii) Corral Basin Creek from a lower point located at 44.214 degrees latitude, and – 118.617 degrees longitude to an upper point located at 44.236 degrees latitude, and – 118.561 degrees longitude.

**Note:** Map follows for Unit 13.



(18) Unit 14—Coeur d'Alene Lake Basin.

(i) Critical Habitat Subunit—Coeur d'Alene Lake.

(A) Coeur d'Alene Lake centered at 47.548 degrees latitude, and –116.802 degrees longitude.

(B) Coeur d'Alene River from a lower point located at 47.46 degrees latitude, and –116.798 degrees longitude to an upper point located at 47.558 degrees latitude, and –116.257 degrees longitude. North Fork Coeur d'Alene River from a lower point located at 47.558 degrees latitude, and –116.257 degrees longitude to an upper point located at 48.006 degrees latitude, and –116.321 degrees longitude.

(C) Cougar Creek from a lower point located at 47.64 degrees latitude, and –116.191 degrees longitude to an upper point located at 47.732 degrees latitude, and –116.305 degrees longitude.

(D) East Fork Steamboat Creek from a lower point located at 47.716 degrees latitude, and –116.199 degrees longitude to an upper point located at 47.787 degrees latitude, and –116.204 degrees longitude. Steamboat Creek from a lower point located at 47.662 degrees latitude, and –116.154 degrees longitude to an upper point located at 47.716 degrees latitude, and –116.199 degrees longitude. West Fork Steamboat Creek from a lower point located at 47.716 degrees latitude, and –116.199 degrees longitude to an upper point located at 47.736 degrees latitude, and –116.277 degrees longitude.

(E) Prichard Creek from a lower point located at 47.658 degrees latitude, and –115.976 degrees longitude to an upper point located at 47.644 degrees latitude, and –115.921 degrees longitude.

(F) Eagle Creek from a lower point located at 47.644 degrees latitude, and –115.921 degrees longitude to an upper point located at 47.652 degrees latitude, and –115.903 degrees longitude. West Fork Eagle Creek from a lower point located at 47.652 degrees latitude, and –115.903 degrees longitude to an upper point located at 47.75 degrees latitude, and –115.803 degrees longitude.

(G) Independence Creek from a lower point located at 47.877 degrees latitude,

and –116.208 degrees longitude to an upper point located at 47.862 degrees latitude, and –116.427 degrees longitude. Tepee Creek from a lower point located at 47.881 degrees latitude, and –116.132 degrees longitude to an upper point located at 47.846 degrees latitude, and –116.247 degrees longitude. Trail Creek from a lower point located at 47.846 degrees latitude, and –116.247 degrees longitude to an upper point located at 47.823 degrees latitude, and –116.341 degrees longitude.

(H) Buckskin Creek from a lower point located at 47.987 degrees latitude, and –116.225 degrees longitude to an upper point located at 48.034 degrees latitude, and –116.199 degrees longitude.

(ii) Critical Habitat Subunit—St. Joe River.

(A) St. Joe River from a lower point located at 47.393 degrees latitude, and –116.749 degrees longitude to an upper point located at 47.017 degrees latitude, and –115.078 degrees longitude.

(B) Eagle Creek from a lower point located at 47.211 degrees latitude, and –115.55 degrees longitude to an upper point located at 47.285 degrees latitude, and –115.495 degrees longitude. Gold Creek from a lower point located at 47.151 degrees latitude, and –115.408 degrees longitude to an upper point located at 47.257 degrees latitude, and –115.373 degrees longitude. Mosquito Creek from a lower point located at 47.156 degrees latitude, and –115.412 degrees longitude to an upper point located at 47.143 degrees latitude, and –115.429 degrees longitude. Simmons Creek from a lower point located at 47.137 degrees latitude, and –115.4 degrees longitude to an upper point located at 47.09 degrees latitude, and –115.231 degrees longitude.

(C) Beaver Creek from a lower point located at 47.083 degrees latitude, and –115.355 degrees longitude to an upper point located at 47.064 degrees latitude, and –115.48 degrees longitude. Fly Creek from a lower point located at 47.113 degrees latitude, and –115.385 degrees longitude to an upper point located at 47.081 degrees latitude, and

–115.489 degrees longitude. Red Ives Creek from a lower point located at 47.056 degrees latitude, and –115.351 degrees longitude to an upper point located at 47.043 degrees latitude, and –115.278 degrees longitude.

(D) Bean Creek from a lower point located at 47.005 degrees latitude, and –115.27 degrees longitude to an upper point located at 46.993 degrees latitude, and –115.192 degrees longitude. Ruby Creek from a lower point located at 46.983 degrees latitude, and –115.367 degrees longitude to an upper point located at 46.961 degrees latitude, and –115.43 degrees longitude. Timber Creek from a lower point located at 47.018 degrees latitude, and –115.368 degrees longitude to an upper point located at 46.992 degrees latitude, and –115.462 degrees longitude.

(E) Heller Creek from a lower point located at 47.061 degrees latitude, and –115.22 degrees longitude to an upper point located at 47.091 degrees latitude, and –115.176 degrees longitude. Sherlock Creek from a lower point located at 47.064 degrees latitude, and –115.218 degrees longitude to an upper point located at 47.064 degrees latitude, and –115.137 degrees longitude. Yankee Bar Creek from a lower point located at 47.049 degrees latitude, and –115.191 degrees longitude to an upper point located at 47.021 degrees latitude, and –115.194 degrees longitude.

(F) California Creek from a lower point located at 47.041 degrees latitude, and –115.159 degrees longitude to an upper point located at 47.004 degrees latitude, and –115.177 degrees longitude. Medicine Creek from a lower point located at 47.028 degrees latitude, and –115.149 degrees longitude to an upper point located at 47.06 degrees latitude, and –115.131 degrees longitude. Wisdom Creek from a lower point located at 47.009 degrees latitude, and –115.133 degrees longitude to an upper point located at 47.027 degrees latitude, and –115.087 degrees longitude.

**Note:** Map follows for Unit 14.

**BILLING CODE 4310-55-P**



(19) Unit 15—Clearwater River Basin.  
(i) Critical Habitat Subunit—Lower/Middle Fork Clearwater River.

(A) Clearwater River from a lower point located at 46.428 degrees latitude, and –117.039 degrees longitude to an upper point located at 46.146 degrees latitude, and –115.98 degrees longitude. Middle Fork Clearwater River from a lower point located at 46.146 degrees latitude, and –115.98 degrees longitude to an upper point located at 46.14 degrees latitude, and –115.599 degrees longitude. North Fork Clearwater River from a lower point located at 46.503 degrees latitude, and –116.331 degrees longitude to an upper point located at 46.514 degrees latitude, and –116.295 degrees longitude.

(B) Lolo Creek from a lower point located at 46.372 degrees latitude, and –116.17 degrees longitude to an upper point located at 46.457 degrees latitude, and –115.616 degrees longitude.

(C) Clear Creek from a lower point located at 46.135 degrees latitude, and –115.951 degrees longitude to an upper point located at 46.056 degrees latitude, and –115.659 degrees longitude. Middle Fork Clear Creek from a lower point located at 46.051 degrees latitude, and –115.781 degrees longitude to an upper point located at 46.024 degrees latitude, and –115.676 degrees longitude. South Fork Clear Creek from a lower point located at 46.043 degrees latitude, and –115.814 degrees longitude to an upper point located at 45.941 degrees latitude, and –115.769 degrees longitude.

(ii) Critical Habitat Subunit—North Fork Clearwater River.

(A) Breakfast Creek from a lower point located at 46.883 degrees latitude, and –115.939 degrees longitude to an upper point located at 46.884 degrees latitude, and –115.969 degrees longitude. Dworshak Reservoir centered at 46.626 degrees latitude, and –116.256 degrees longitude. Floodwood Creek from a lower point located at 46.888 degrees latitude, and –115.953 degrees longitude to an upper point located at 47.027 degrees latitude, and –115.955 degrees longitude. Freeman Creek from a lower point located at 46.567 degrees latitude, and –116.283 degrees longitude to an upper point located at 46.568 degrees latitude, and –116.312 degrees longitude. North Fork Clearwater River from a lower point located at 46.858 degrees latitude, and –115.68 degrees longitude to an upper point located at 46.999 degrees latitude, and –115.112 degrees longitude. Stony Creek from a lower point located at 46.884 degrees latitude, and –115.969 degrees longitude to an upper point located at 46.916 degrees latitude, and

–116.012 degrees longitude. West Fork Floodwood Creek from a lower point located at 46.957 degrees latitude, and –115.927 degrees longitude to an upper point located at 46.999 degrees latitude, and –115.977 degrees longitude.

(B) Adair Creek from a lower point located at 47.083 degrees latitude, and –115.805 degrees longitude to an upper point located at 47.097 degrees latitude, and –115.852 degrees longitude. Butte Creek (Dworshak Reservoir) from a lower point located at 46.86 degrees latitude, and –115.743 degrees longitude to an upper point located at 46.843 degrees latitude, and –115.741 degrees longitude. Butte Creek (North Fork Clearwater) from a lower point located at 47.045 degrees latitude, and –115.719 degrees longitude to an upper point located at 47.031 degrees latitude, and –115.75 degrees longitude. Canyon Creek from a lower point located at 47 degrees latitude, and –115.65 degrees longitude to an upper point located at 47.017 degrees latitude, and –115.498 degrees longitude. Jungle Creek from a lower point located at 47.077 degrees latitude, and –115.803 degrees longitude to an upper point located at 47.11 degrees latitude, and –115.795 degrees longitude. Little Lost Lake Creek from a lower point located at 47.089 degrees latitude, and –115.892 degrees longitude to an upper point located at 47.066 degrees latitude, and –115.941 degrees longitude. Little North Fork Clearwater River from a lower point located at 46.887 degrees latitude, and –115.877 degrees longitude to an upper point located at 47.101 degrees latitude, and –115.962 degrees longitude. Lost Lake Creek from a lower point located at 47.096 degrees latitude, and –115.9 degrees longitude to an upper point located at 47.072 degrees latitude, and –115.957 degrees longitude. Lund Creek from a lower point located at 47.068 degrees latitude, and –115.883 degrees longitude to an upper point located at 47.05 degrees latitude, and –115.925 degrees longitude. Montana Creek from a lower point located at 47.045 degrees latitude, and –115.7 degrees longitude to an upper point located at 47.089 degrees latitude, and –115.675 degrees longitude. Rutledge Creek from a lower point located at 47.073 degrees latitude, and –115.754 degrees longitude to an upper point located at 47.108 degrees latitude, and –115.722 degrees longitude. Sawtooth Creek from a lower point located at 46.994 degrees latitude, and –115.649 degrees longitude to an upper point located at 46.973 degrees latitude, and –115.495 degrees longitude.

(C) Isabella Creek from a lower point located at 46.849 degrees latitude, and

–115.63 degrees longitude to an upper point located at 46.914 degrees latitude, and –115.538 degrees longitude.

(D) Beaver Creek from a lower point located at 46.842 degrees latitude, and –115.62 degrees longitude to an upper point located at 46.815 degrees latitude, and –115.645 degrees longitude. Sneak Creek from a lower point located at 46.833 degrees latitude, and –115.543 degrees longitude to an upper point located at 46.834 degrees latitude, and –115.546 degrees longitude.

(E) Collins Creek from a lower point located at 46.862 degrees latitude, and –115.433 degrees longitude to an upper point located at 46.982 degrees latitude, and –115.452 degrees longitude. Frost Creek from a lower point located at 46.918 degrees latitude, and –115.348 degrees longitude to an upper point located at 46.926 degrees latitude, and –115.379 degrees longitude. Roaring Creek from a lower point located at 46.886 degrees latitude, and –115.355 degrees longitude to an upper point located at 46.918 degrees latitude, and –115.348 degrees longitude. Skull Creek from a lower point located at 46.827 degrees latitude, and –115.485 degrees longitude to an upper point located at 46.91 degrees latitude, and –115.255 degrees longitude.

(F) Quartz Creek from a lower point located at 46.806 degrees latitude, and –115.455 degrees longitude to an upper point located at 46.846 degrees latitude, and –115.258 degrees longitude.

(G) Lightning Creek from a lower point located at 46.782 degrees latitude, and –115.439 degrees longitude to an upper point located at 46.775 degrees latitude, and –115.44 degrees longitude. Rock Creek from a lower point located at 46.783 degrees latitude, and –115.477 degrees longitude to an upper point located at 46.746 degrees latitude, and –115.382 degrees longitude.

(H) Larson Creek from a lower point located at 46.765 degrees latitude, and –115.495 degrees longitude to an upper point located at 46.759 degrees latitude, and –115.487 degrees longitude. Little Washington Creek from a lower point located at 46.729 degrees latitude, and –115.554 degrees longitude to an upper point located at 46.741 degrees latitude, and –115.563 degrees longitude. Orogrande Creek from a lower point located at 46.631 degrees latitude, and –115.506 degrees longitude to an upper point located at 46.62 degrees latitude, and –115.508 degrees longitude. Washington Creek from a lower point located at 46.707 degrees latitude, and –115.557 degrees longitude to an upper point located at 46.698 degrees latitude, and –115.577 degrees longitude.

(I) Corral Creek from a lower point located at 46.483 degrees latitude, and – 115.24 degrees longitude to an upper point located at 46.534 degrees latitude, and – 115.206 degrees longitude. Fro Creek from a lower point located at 46.479 degrees latitude, and – 115.221 degrees longitude to an upper point located at 46.467 degrees latitude, and – 115.208 degrees longitude. Johnagan Creek from a lower point located at 46.51 degrees latitude, and – 115.366 degrees longitude to an upper point located at 46.543 degrees latitude, and – 115.353 degrees longitude. Johnny Creek from a lower point located at 46.613 degrees latitude, and – 115.434 degrees longitude to an upper point located at 46.614 degrees latitude, and – 115.371 degrees longitude. Little Weitas Creek from a lower point located at 46.506 degrees latitude, and – 115.391 degrees longitude to an upper point located at 46.479 degrees latitude, and – 115.388 degrees longitude. Liz Creek from a lower point located at 46.482 degrees latitude, and – 115.289 degrees longitude to an upper point located at 46.436 degrees latitude, and – 115.305 degrees longitude. Middle Creek from a lower point located at 46.521 degrees latitude, and – 115.411 degrees longitude to an upper point located at 46.459 degrees latitude, and – 115.538 degrees longitude. Weitas Creek from a lower point located at 46.636 degrees latitude, and – 115.433 degrees longitude to an upper point located at 46.508 degrees latitude, and – 115.173 degrees longitude. Windy Creek from a lower point located at 46.494 degrees latitude, and – 115.327 degrees longitude to an upper point located at 46.57 degrees latitude, and – 115.235 degrees longitude.

(J) Death Creek from a lower point located at 46.656 degrees latitude, and – 115.388 degrees longitude to an upper point located at 46.662 degrees latitude, and – 115.397 degrees longitude. Fisher Creek from a lower point located at 46.662 degrees latitude, and – 115.38 degrees longitude to an upper point located at 46.672 degrees latitude, and – 115.386 degrees longitude. Trail Creek from a lower point located at 46.685 degrees latitude, and – 115.351 degrees longitude to an upper point located at 46.7 degrees latitude, and – 115.358 degrees longitude.

(K) Bill Creek from a lower point located at 46.631 degrees latitude, and – 115.27 degrees longitude to an upper point located at 46.637 degrees latitude, and – 115.186 degrees longitude. Fourth Of July Creek from a lower point located at 46.665 degrees latitude, and – 115.376 degrees longitude to an upper point located at 46.564 degrees latitude,

and – 115.259 degrees longitude. Shot Creek from a lower point located at 46.639 degrees latitude, and – 115.28 degrees longitude to an upper point located at 46.666 degrees latitude, and – 115.206 degrees longitude.

(L) Cold Springs Creek from a lower point located at 46.721 degrees latitude, and – 115.297 degrees longitude to an upper point located at 46.745 degrees latitude, and – 115.341 degrees longitude. Cool Creek from a lower point located at 46.741 degrees latitude, and – 115.326 degrees longitude to an upper point located at 46.751 degrees latitude, and – 115.323 degrees longitude.

(M) Barnard Creek from a lower point located at 46.708 degrees latitude, and – 115.167 degrees longitude to an upper point located at 46.644 degrees latitude, and – 115.188 degrees longitude. Bear Creek from a lower point located at 46.711 degrees latitude, and – 114.962 degrees longitude to an upper point located at 46.75 degrees latitude, and – 114.921 degrees longitude. Junction Creek from a lower point located at 46.718 degrees latitude, and – 115.235 degrees longitude to an upper point located at 46.698 degrees latitude, and – 115.239 degrees longitude. Kelly Creek from a lower point located at 46.716 degrees latitude, and – 115.257 degrees longitude to an upper point located at 46.73 degrees latitude, and – 114.86 degrees longitude. Kid Lake Creek from a lower point located at 46.747 degrees latitude, and – 114.805 degrees longitude to an upper point located at 46.769 degrees latitude, and – 114.804 degrees longitude. Middle Fork Kelly Creek from a lower point located at 46.73 degrees latitude, and – 114.86 degrees longitude to an upper point located at 46.747 degrees latitude, and – 114.805 degrees longitude. North Fork Kelly Creek from a lower point located at 46.73 degrees latitude, and – 114.86 degrees longitude to an upper point located at 46.78 degrees latitude, and – 114.869 degrees longitude. South Fork Kelly Creek from a lower point located at 46.712 degrees latitude, and – 114.862 degrees longitude to an upper point located at 46.707 degrees latitude, and – 114.817 degrees longitude.

(N) Little Moose Creek from a lower point located at 46.733 degrees latitude, and – 115.077 degrees longitude to an upper point located at 46.783 degrees latitude, and – 114.905 degrees longitude. Moose Creek from a lower point located at 46.721 degrees latitude, and – 115.086 degrees longitude to an upper point located at 46.752 degrees latitude, and – 115.184 degrees longitude. Osier Creek from a lower point located at 46.744 degrees latitude,

and – 115.073 degrees longitude to an upper point located at 46.837 degrees latitude, and – 115.064 degrees longitude. Pollock Creek from a lower point located at 46.781 degrees latitude, and – 115.022 degrees longitude to an upper point located at 46.78 degrees latitude, and – 114.989 degrees longitude. Ruby Creek from a lower point located at 46.733 degrees latitude, and – 115.078 degrees longitude to an upper point located at 46.745 degrees latitude, and – 115.104 degrees longitude. Sugar Creek from a lower point located at 46.771 degrees latitude, and – 115.034 degrees longitude to an upper point located at 46.82 degrees latitude, and – 115.005 degrees longitude. Swamp Creek from a lower point located at 46.745 degrees latitude, and – 115.067 degrees longitude to an upper point located at 46.799 degrees latitude, and – 115.001 degrees longitude.

(O) Cayuse Creek from a lower point located at 46.712 degrees latitude, and – 115.02 degrees longitude to an upper point located at 46.612 degrees latitude, and – 114.792 degrees longitude. Gravey Creek from a lower point located at 46.6 degrees latitude, and – 115.073 degrees longitude to an upper point located at 46.513 degrees latitude, and – 115.152 degrees longitude. Howard Creek from a lower point located at 46.593 degrees latitude, and – 115.013 degrees longitude to an upper point located at 46.531 degrees latitude, and – 115.07 degrees longitude. Mae Creek from a lower point located at 46.581 degrees latitude, and – 115.104 degrees longitude to an upper point located at 46.576 degrees latitude, and – 115.1 degrees longitude. Marten Creek from a lower point located at 46.575 degrees latitude, and – 115.105 degrees longitude to an upper point located at 46.555 degrees latitude, and – 115.177 degrees longitude. Mink Creek from a lower point located at 46.601 degrees latitude, and – 114.894 degrees longitude to an upper point located at 46.628 degrees latitude, and – 114.893 degrees longitude. Monroe Creek from a lower point located at 46.642 degrees latitude, and – 115.131 degrees longitude to an upper point located at 46.631 degrees latitude, and – 115.149 degrees longitude. Silver Creek from a lower point located at 46.607 degrees latitude, and – 114.83 degrees longitude to an upper point located at 46.653 degrees latitude, and – 114.813 degrees longitude. Toboggan Creek from a lower point located at 46.677 degrees latitude, and – 115.049 degrees longitude to an upper point located at 46.631 degrees latitude, and – 114.937 degrees

longitude. Weasel Creek from a lower point located at 46.601 degrees latitude, and –114.904 degrees longitude to an upper point located at 46.623 degrees latitude, and –114.905 degrees longitude.

(P) Bostonian Creek from a lower point located at 46.962 degrees latitude, and –115.113 degrees longitude to an upper point located at 47.002 degrees latitude, and –115.159 degrees longitude. Boundary Creek from a lower point located at 46.972 degrees latitude, and –115.107 degrees longitude to an upper point located at 46.981 degrees latitude, and –115.076 degrees longitude. Chamberlain Creek from a lower point located at 46.929 degrees latitude, and –115.142 degrees longitude to an upper point located at 46.917 degrees latitude, and –115.2 degrees longitude. Deception Gulch from a lower point located at 46.837 degrees latitude, and –115.119 degrees longitude to an upper point located at 46.819 degrees latitude, and –115.149 degrees longitude. Elizabeth Creek from a lower point located at 46.79 degrees latitude, and –115.219 degrees longitude to an upper point located at 46.799 degrees latitude, and –115.228 degrees longitude. Goose Creek from a lower point located at 46.852 degrees latitude, and –115.012 degrees longitude to an upper point located at 46.906 degrees latitude, and –114.952 degrees longitude. Graves Creek from a lower point located at 46.986 degrees latitude, and –115.1 degrees longitude to an upper point located at 47.006 degrees latitude, and –115.078 degrees longitude. Hidden Creek from a lower point located at 46.832 degrees latitude, and –115.177 degrees longitude to an upper point located at 46.846 degrees latitude, and –115.213 degrees longitude. Lake Creek from a lower point located at 46.869 degrees latitude, and –115.078 degrees longitude to an upper point located at 46.832 degrees latitude, and –114.971 degrees longitude. Long Creek from a lower point located at 46.873 degrees latitude, and –115.075 degrees longitude to an upper point located at 46.95 degrees latitude, and –115.024 degrees longitude. Meadow Creek from a lower point located at 46.905 degrees latitude, and –115.116 degrees longitude to an upper point located at 46.964 degrees latitude, and –115.22 degrees longitude. Niagra Gulch from a lower point located at 46.967 degrees latitude, and –115.136 degrees longitude to an upper point located at 46.974 degrees latitude, and –115.158 degrees longitude. Pete Ott Creek from a lower point located at 46.748 degrees latitude,

and –115.236 degrees longitude to an upper point located at 46.754 degrees latitude, and –115.239 degrees longitude. Placer Creek from a lower point located at 46.938 degrees latitude, and –115.167 degrees longitude to an upper point located at 46.963 degrees latitude, and –115.19 degrees longitude. Rawhide Creek from a lower point located at 46.898 degrees latitude, and –115.047 degrees longitude to an upper point located at 46.938 degrees latitude, and –115.055 degrees longitude. Short Creek from a lower point located at 46.886 degrees latitude, and –115.057 degrees longitude to an upper point located at 46.898 degrees latitude, and –115.013 degrees longitude. Slate Creek from a lower point located at 46.927 degrees latitude, and –115.018 degrees longitude to an upper point located at 46.914 degrees latitude, and –114.979 degrees longitude. Unnamed creek off Long Creek from a lower point located at 46.939 degrees latitude, and –115.023 degrees longitude to an upper point located at 46.956 degrees latitude, and –115.056 degrees longitude. Vanderbilt Gulch from a lower point located at 46.916 degrees latitude, and –115.119 degrees longitude to an upper point located at 46.944 degrees latitude, and –115.221 degrees longitude.

(iii) Critical Habitat Subunit—Fish Lake (North Fork).

(A) Fish Lake centered at 46.818 degrees latitude, and –114.911 degrees longitude. Lake Creek from a lower point located at 46.832 degrees latitude, and –114.971 degrees longitude to an upper point located at 46.817 degrees latitude, and –114.919 degrees longitude.

(B) [Reserved]

(iv) Critical Habitat Subunit—South Fork Clearwater River.

(A) South Fork Clearwater River from a lower point located at 46.146 degrees latitude, and –115.98 degrees longitude to an upper point located at 45.808 degrees latitude, and –115.474 degrees longitude.

(B) Merton Creek from a lower point located at 45.725 degrees latitude, and –115.995 degrees longitude to an upper point located at 45.724 degrees latitude, and –115.978 degrees longitude. Mill Creek from a lower point located at 45.83 degrees latitude, and –115.931 degrees longitude to an upper point located at 45.725 degrees latitude, and –115.995 degrees longitude.

(C) Gospel Creek from a lower point located at 45.703 degrees latitude, and –115.89 degrees longitude to an upper point located at 45.677 degrees latitude, and –115.89 degrees longitude. Hagen Creek from a lower point located at

45.649 degrees latitude, and –115.817 degrees longitude to an upper point located at 45.63 degrees latitude, and –115.808 degrees longitude. Johns Creek from a lower point located at 45.824 degrees latitude, and –115.889 degrees longitude to an upper point located at 45.683 degrees latitude, and –115.754 degrees longitude. Moores Creek from a lower point located at 45.676 degrees latitude, and –115.837 degrees longitude to an upper point located at 45.615 degrees latitude, and –115.879 degrees longitude. Moores Lake Creek from a lower point located at 45.677 degrees latitude, and –115.89 degrees longitude to an upper point located at 45.659 degrees latitude, and –115.869 degrees longitude. Open Creek from a lower point located at 45.676 degrees latitude, and –115.837 degrees longitude to an upper point located at 45.683 degrees latitude, and –115.822 degrees longitude. Taylor Creek from a lower point located at 45.659 degrees latitude, and –115.782 degrees longitude to an upper point located at 45.637 degrees latitude, and –115.773 degrees longitude. Twin Lakes Creek from a lower point located at 45.664 degrees latitude, and –115.827 degrees longitude to an upper point located at 45.65 degrees latitude, and –115.817 degrees longitude.

(D) Silver Creek from a lower point located at 45.806 degrees latitude, and –115.791 degrees longitude to an upper point located at 45.807 degrees latitude, and –115.79 degrees longitude. Twentymile Creek from a lower point located at 45.795 degrees latitude, and –115.763 degrees longitude to an upper point located at 45.794 degrees latitude, and –115.764 degrees longitude. Wing Creek from a lower point located at 45.795 degrees latitude, and –115.776 degrees longitude to an upper point located at 45.792 degrees latitude, and –115.776 degrees longitude.

(E) Sixmile Creek from a lower point located at 45.764 degrees latitude, and –115.659 degrees longitude to an upper point located at 45.763 degrees latitude, and –115.645 degrees longitude. Tenmile Creek from a lower point located at 45.806 degrees latitude, and –115.683 degrees longitude to an upper point located at 45.639 degrees latitude, and –115.712 degrees longitude. Williams Creek from a lower point located at 45.731 degrees latitude, and –115.655 degrees longitude to an upper point located at 45.667 degrees latitude, and –115.657 degrees longitude. Wiseboy Creek from a lower point located at 45.642 degrees latitude, and –115.711 degrees longitude to an upper point located at 45.638 degrees latitude, and –115.703 degrees longitude.



(F) Buckhorn Creek from a lower point located at 45.81 degrees latitude, and -115.656 degrees longitude to an upper point located at 45.808 degrees latitude, and -115.656 degrees longitude.

(G) Baldy Creek from a lower point located at 45.908 degrees latitude, and -115.629 degrees longitude to an upper point located at 45.944 degrees latitude, and -115.682 degrees longitude. Bear Creek from a lower point located at 45.863 degrees latitude, and -115.617 degrees longitude to an upper point located at 45.878 degrees latitude, and -115.594 degrees longitude. Beaver Creek from a lower point located at 45.896 degrees latitude, and -115.63 degrees longitude to an upper point located at 45.943 degrees latitude, and -115.568 degrees longitude. Mule Creek from a lower point located at 45.925 degrees latitude, and -115.634 degrees longitude to an upper point located at 45.933 degrees latitude, and -115.63 degrees longitude. Newsome Creek from a lower point located at 45.828 degrees latitude, and -115.615 degrees longitude to an upper point located at 46.004 degrees latitude, and -115.678 degrees longitude. Pilot Creek from a lower point located at 45.907 degrees latitude, and -115.629 degrees longitude to an upper point located at 45.945 degrees latitude, and -115.731 degrees longitude. Unnamed creek 1 off Pilot Creek from a lower point located at 45.93 degrees latitude, and -115.676 degrees longitude to an upper point located at 45.924 degrees latitude, and -115.687 degrees longitude. Unnamed creek 2 off Pilot Creek from a lower point located at 45.939 degrees latitude, and -115.716 degrees longitude to an upper point located at 45.934 degrees latitude, and -115.72 degrees longitude. West Fork Newsome Creek from a lower point located at 45.865 degrees latitude, and -115.617 degrees longitude to an upper point located at 45.892 degrees latitude, and -115.694 degrees longitude.

(H) Crooked River from a lower point located at 45.824 degrees latitude, and -115.529 degrees longitude to an upper point located at 45.695 degrees latitude, and -115.548 degrees longitude. East Fork Crooked River from a lower point located at 45.695 degrees latitude, and -115.548 degrees longitude to an upper point located at 45.673 degrees latitude, and -115.542 degrees longitude. Relief Creek from a lower point located at 45.748 degrees latitude, and -115.519 degrees longitude to an upper point located at 45.754 degrees latitude, and -115.497 degrees longitude. Unnamed creek off West Fork Crooked River from a lower point located at 45.69 degrees

latitude, and -115.563 degrees longitude to an upper point located at 45.695 degrees latitude, and -115.573 degrees longitude. West Fork Crooked River from a lower point located at 45.695 degrees latitude, and -115.548 degrees longitude to an upper point located at 45.666 degrees latitude, and -115.596 degrees longitude.

(I) Baston Creek from a lower point located at 45.76 degrees latitude, and -115.235 degrees longitude to an upper point located at 45.731 degrees latitude, and -115.223 degrees longitude. Bridge Creek from a lower point located at 45.779 degrees latitude, and -115.21 degrees longitude to an upper point located at 45.814 degrees latitude, and -115.163 degrees longitude. Dawson Creek from a lower point located at 45.73 degrees latitude, and -115.39 degrees longitude to an upper point located at 45.743 degrees latitude, and -115.425 degrees longitude. Ditch Creek from a lower point located at 45.747 degrees latitude, and -115.297 degrees longitude to an upper point located at 45.794 degrees latitude, and -115.292 degrees longitude. Little Moose Creek from a lower point located at 45.716 degrees latitude, and -115.367 degrees longitude to an upper point located at 45.709 degrees latitude, and -115.399 degrees longitude. Middle Fork. Red River from a lower point located at 45.659 degrees latitude, and -115.412 degrees longitude to an upper point located at 45.631 degrees latitude, and -115.471 degrees longitude. Moose Butte Creek from a lower point located at 45.71 degrees latitude, and -115.352 degrees longitude to an upper point located at 45.692 degrees latitude, and -115.416 degrees longitude. Otterson Creek from a lower point located at 45.776 degrees latitude, and -115.219 degrees longitude to an upper point located at 45.82 degrees latitude, and -115.233 degrees longitude. Red Horse Creek from a lower point located at 45.794 degrees latitude, and -115.4 degrees longitude to an upper point located at 45.827 degrees latitude, and -115.326 degrees longitude. Red River from a lower point located at 45.808 degrees latitude, and -115.474 degrees longitude to an upper point located at 45.803 degrees latitude, and -115.154 degrees longitude. Siegel Creek from a lower point located at 45.773 degrees latitude, and -115.387 degrees longitude to an upper point located at 45.787 degrees latitude, and -115.367 degrees longitude. Soda Creek from a lower point located at 45.756 degrees latitude, and -115.256 degrees longitude to an upper point located at 45.746 degrees latitude, and -115.251 degrees

longitude. South Fork Red River from a lower point located at 45.711 degrees latitude, and -115.344 degrees longitude to an upper point located at 45.623 degrees latitude, and -115.479 degrees longitude. Trapper Creek from a lower point located at 45.674 degrees latitude, and -115.344 degrees longitude to an upper point located at 45.705 degrees latitude, and -115.247 degrees longitude. West Fork Red River from a lower point located at 45.653 degrees latitude, and -115.401 degrees longitude to an upper point located at 45.667 degrees latitude, and -115.452 degrees longitude.

(J) American River from a lower point located at 45.808 degrees latitude, and -115.474 degrees longitude to an upper point located at 45.945 degrees latitude, and -115.449 degrees longitude. Big Elk Creek from a lower point located at 45.841 degrees latitude, and -115.434 degrees longitude to an upper point located at 45.933 degrees latitude, and -115.554 degrees longitude. East Fork. American River from a lower point located at 45.864 degrees latitude, and -115.424 degrees longitude to an upper point located at 45.919 degrees latitude, and -115.362 degrees longitude. Elk Creek from a lower point located at 45.818 degrees latitude, and -115.458 degrees longitude to an upper point located at 45.841 degrees latitude, and -115.434 degrees longitude. Flint Creek from a lower point located at 45.891 degrees latitude, and -115.427 degrees longitude to an upper point located at 45.913 degrees latitude, and -115.423 degrees longitude. Kirks Fork American River from a lower point located at 45.822 degrees latitude, and -115.41 degrees longitude to an upper point located at 45.829 degrees latitude, and -115.389 degrees longitude. Lick Creek from a lower point located at 45.923 degrees latitude, and -115.468 degrees longitude to an upper point located at 45.969 degrees latitude, and -115.486 degrees longitude. Little Elk Creek from a lower point located at 45.841 degrees latitude, and -115.434 degrees longitude to an upper point located at 45.927 degrees latitude, and -115.537 degrees longitude. West Fork American River from a lower point located at 45.913 degrees latitude, and -115.465 degrees longitude to an upper point located at 45.935 degrees latitude, and -115.544 degrees longitude.

(v) Critical Habitat Subunit—Lochsa River.

(A) Lochsa River from a lower point located at 46.14 degrees latitude, and -115.599 degrees longitude to an upper point located at 46.508 degrees latitude, and -114.681 degrees longitude.

(B) Bimerick Creek from a lower point located at 46.228 degrees latitude, and –115.444 degrees longitude to an upper point located at 46.233 degrees latitude, and –115.445 degrees longitude. Canyon Creek from a lower point located at 46.211 degrees latitude, and –115.541 degrees longitude to an upper point located at 46.211 degrees latitude, and –115.552 degrees longitude. Coolwater Creek from a lower point located at 46.229 degrees latitude, and –115.456 degrees longitude to an upper point located at 46.214 degrees latitude, and –115.466 degrees longitude. Deadman Creek from a lower point located at 46.226 degrees latitude, and –115.501 degrees longitude to an upper point located at 46.252 degrees latitude, and –115.506 degrees longitude. Fire Creek from a lower point located at 46.227 degrees latitude, and –115.432 degrees longitude to an upper point located at 46.219 degrees latitude, and –115.424 degrees longitude.

(C) Split Creek from a lower point located at 46.233 degrees latitude, and –115.407 degrees longitude to an upper point located at 46.162 degrees latitude, and –115.351 degrees longitude.

(D) Old Man Creek from a lower point located at 46.252 degrees latitude, and –115.399 degrees longitude to an upper point located at 46.231 degrees latitude, and –115.28 degrees longitude.

(E) Fish Creek from a lower point located at 46.333 degrees latitude, and –115.345 degrees longitude to an upper point located at 46.373 degrees latitude, and –115.596 degrees longitude. Hungry Creek from a lower point located at 46.356 degrees latitude, and –115.397 degrees longitude to an upper point located at 46.4 degrees latitude, and –115.568 degrees longitude.

(F) Boulder Creek from a lower point located at 46.338 degrees latitude, and –115.314 degrees longitude to an upper point located at 46.321 degrees latitude, and –115.224 degrees longitude.

(G) Bald Mountain Creek from a lower point located at 46.384 degrees latitude, and –115.231 degrees longitude to an upper point located at 46.399 degrees latitude, and –115.24 degrees longitude. Stanley Creek from a lower point located at 46.421 degrees latitude, and –115.161 degrees longitude to an upper point located at 46.406 degrees latitude, and –115.153 degrees longitude.

(H) Indian Grave Creek from a lower point located at 46.452 degrees latitude, and –115.076 degrees longitude to an upper point located at 46.49 degrees latitude, and –115.142 degrees longitude.

(I) Weir Creek from a lower point located at 46.458 degrees latitude, and –115.034 degrees longitude to an upper

point located at 46.534 degrees latitude, and –115.017 degrees longitude.

(J) California Creek from a lower point located at 46.366 degrees latitude, and –114.998 degrees longitude to an upper point located at 46.344 degrees latitude, and –114.994 degrees longitude. Fish Lake Creek from a lower point located at 46.415 degrees latitude, and –115.006 degrees longitude to an upper point located at 46.366 degrees latitude, and –114.998 degrees longitude. Freezeout Creek from a lower point located at 46.404 degrees latitude, and –115 degrees longitude to an upper point located at 46.378 degrees latitude, and –114.967 degrees longitude. Lake Creek from a lower point located at 46.463 degrees latitude, and –114.996 degrees longitude to an upper point located at 46.415 degrees latitude, and –115.006 degrees longitude.

(K) Postoffice Creek from a lower point located at 46.466 degrees latitude, and –114.985 degrees longitude to an upper point located at 46.529 degrees latitude, and –114.95 degrees longitude. West Fork Postoffice Creek from a lower point located at 46.482 degrees latitude, and –114.979 degrees longitude to an upper point located at 46.514 degrees latitude, and –115.003 degrees longitude.

(L) Cooperation Creek from a lower point located at 46.452 degrees latitude, and –114.869 degrees longitude to an upper point located at 46.44 degrees latitude, and –114.816 degrees longitude. Warm Springs Creek from a lower point located at 46.473 degrees latitude, and –114.887 degrees longitude to an upper point located at 46.43 degrees latitude, and –114.864 degrees longitude.

(M) Doe Creek from a lower point located at 46.499 degrees latitude, and –114.862 degrees longitude to an upper point located at 46.554 degrees latitude, and –114.92 degrees longitude. East Fork Fishing Creek from a lower point located at 46.556 degrees latitude, and –114.854 degrees longitude to an upper point located at 46.561 degrees latitude, and –114.837 degrees longitude. Fishing Creek from a lower point located at 46.492 degrees latitude, and –114.857 degrees longitude to an upper point located at 46.571 degrees latitude, and –114.859 degrees longitude. Spring Creek from a lower point located at 46.546 degrees latitude, and –114.885 degrees longitude to an upper point located at 46.552 degrees latitude, and –114.902 degrees longitude. West Fork Fishing Creek from a lower point located at 46.537 degrees latitude, and –114.867 degrees longitude to an upper point located at 46.567 degrees latitude, and –114.884 degrees longitude.

(N) Badger Creek from a lower point located at 46.505 degrees latitude, and –114.823 degrees longitude to an upper point located at 46.517 degrees latitude, and –114.824 degrees longitude. Wendover Creek from a lower point located at 46.509 degrees latitude, and –114.785 degrees longitude to an upper point located at 46.52 degrees latitude, and –114.788 degrees longitude.

(O) East Fork Legendary Bear Creek from a lower point located at 46.535 degrees latitude, and –114.765 degrees longitude to an upper point located at 46.562 degrees latitude, and –114.735 degrees longitude. Legendary Bear Creek from a lower point located at 46.511 degrees latitude, and –114.761 degrees longitude to an upper point located at 46.535 degrees latitude, and –114.765 degrees longitude. Parachute Creek from a lower point located at 46.529 degrees latitude, and –114.761 degrees longitude to an upper point located at 46.53 degrees latitude, and –114.756 degrees longitude. West Fork Legendary Bear Creek from a lower point located at 46.535 degrees latitude, and –114.765 degrees longitude to an upper point located at 46.58 degrees latitude, and –114.751 degrees longitude.

(P) Walton Creek from a lower point located at 46.508 degrees latitude, and –114.681 degrees longitude to an upper point located at 46.473 degrees latitude, and –114.68 degrees longitude.

(Q) Beaver Creek from a lower point located at 46.506 degrees latitude, and –114.626 degrees longitude to an upper point located at 46.553 degrees latitude, and –114.503 degrees longitude. Big Flat Creek from a lower point located at 46.402 degrees latitude, and –114.493 degrees longitude to an upper point located at 46.313 degrees latitude, and –114.44 degrees longitude. Colt Killed Creek from a lower point located at 46.508 degrees latitude, and –114.681 degrees longitude to an upper point located at 46.429 degrees latitude, and –114.414 degrees longitude. Maud Creek from a lower point located at 46.497 degrees latitude, and –114.514 degrees longitude to an upper point located at 46.474 degrees latitude, and –114.411 degrees longitude. Storm Creek from a lower point located at 46.463 degrees latitude, and –114.548 degrees longitude to an upper point located at 46.541 degrees latitude, and –114.402 degrees longitude.

(R) Boulder Creek from a lower point located at 46.615 degrees latitude, and –114.67 degrees longitude to an upper point located at 46.679 degrees latitude, and –114.748 degrees longitude. Crooked Fork from a lower point located at 46.508 degrees latitude, and –114.681 degrees longitude to an upper

point located at 46.704 degrees latitude, and – 114.708 degrees longitude. Fox Creek from a lower point located at 46.617 degrees latitude, and – 114.719 degrees longitude to an upper point located at 46.605 degrees latitude, and – 114.754 degrees longitude. Haskell Creek from a lower point located at 46.597 degrees latitude, and – 114.603 degrees longitude to an upper point located at 46.632 degrees latitude, and – 114.582 degrees longitude. Hopeful Creek from a lower point located at 46.671 degrees latitude, and – 114.68 degrees longitude to an upper point located at 46.724 degrees latitude, and – 114.653 degrees longitude. Rock Creek from a lower point located at 46.598 degrees latitude, and – 114.609 degrees longitude to an upper point located at 46.612 degrees latitude, and – 114.619 degrees longitude. Shotgun Creek from a lower point located at 46.601 degrees latitude, and – 114.664 degrees longitude to an upper point located at 46.6 degrees latitude, and – 114.737 degrees longitude. Unnamed creek off Hopeful Creek from a lower point located at 46.699 degrees latitude, and – 114.668 degrees longitude to an upper point located at 46.708 degrees latitude, and – 114.624 degrees longitude. Williams Lake Creek from a lower point located at 46.644 degrees latitude, and – 114.716 degrees longitude to an upper point located at 46.647 degrees latitude, and – 114.767 degrees longitude.

(S) Brushy Fork from a lower point located at 46.578 degrees latitude, and – 114.612 degrees longitude to an upper point located at 46.616 degrees latitude, and – 114.454 degrees longitude. North Fork Spruce Creek from a lower point located at 46.606 degrees latitude, and – 114.392 degrees longitude to an upper point located at 46.616 degrees latitude, and – 114.351 degrees longitude. South Fork Spruce Creek from a lower point located at 46.606 degrees latitude, and – 114.392 degrees longitude to an upper point located at 46.565 degrees latitude, and – 114.352 degrees longitude. Shoot Creek from a lower point located at 46.606 degrees latitude, and – 114.414 degrees longitude to an upper point located at 46.58 degrees latitude, and – 114.425 degrees longitude. Spruce Creek from a lower point located at 46.606 degrees latitude, and – 114.392 degrees longitude to an upper point located at 46.616 degrees latitude, and – 114.454 degrees longitude. Twin Creek from a lower point located at 46.582 degrees latitude, and – 114.527 degrees longitude to an upper point located at 46.57 degrees latitude, and – 114.474 degrees longitude.

(vi) Critical Habitat Subunit—Fish Lake (Lochsa).

(A) Fish Lake centered at 46.818 degrees latitude, and – 114.911 degrees longitude. Fish Lake Creek from a lower point located at 46.366 degrees latitude, and – 114.998 degrees longitude to an upper point located at 46.325 degrees latitude, and – 115.084 degrees longitude.

(B) [Reserved]

(vii) Critical Habitat Subunit—Selway River.

(A) Goddard Cr. from a lower point located at 46.101 degrees latitude, and – 115.557 degrees longitude to an upper point located at 46.095 degrees latitude, and – 115.558 degrees longitude. Selway River from a lower point located at 46.14 degrees latitude, and – 115.599 degrees longitude to an upper point located at 45.478 degrees latitude, and – 114.676 degrees longitude.

(B) East Fork O'Hara Creek from a lower point located at 45.999 degrees latitude, and – 115.523 degrees longitude to an upper point located at 45.939 degrees latitude, and – 115.54 degrees longitude. O'Hara Creek from a lower point located at 46.086 degrees latitude, and – 115.517 degrees longitude to an upper point located at 45.999 degrees latitude, and – 115.523 degrees longitude. West Fork O'Hara Creek from a lower point located at 45.999 degrees latitude, and – 115.523 degrees longitude to an upper point located at 45.949 degrees latitude, and – 115.569 degrees longitude.

(C) Boyd Creek from a lower point located at 46.081 degrees latitude, and – 115.442 degrees longitude to an upper point located at 46.093 degrees latitude, and – 115.43 degrees longitude. Falls Creek from a lower point located at 46.061 degrees latitude, and – 115.338 degrees longitude to an upper point located at 46.051 degrees latitude, and – 115.348 degrees longitude. Glover Creek from a lower point located at 46.068 degrees latitude, and – 115.361 degrees longitude to an upper point located at 46.081 degrees latitude, and – 115.36 degrees longitude. Rackliff Creek from a lower point located at 46.084 degrees latitude, and – 115.494 degrees longitude to an upper point located at 46.102 degrees latitude, and – 115.495 degrees longitude.

(D) Gedney Creek from a lower point located at 46.056 degrees latitude, and – 115.313 degrees longitude to an upper point located at 46.135 degrees latitude, and – 115.248 degrees longitude. West Fork Gedney Creek from a lower point located at 46.094 degrees latitude, and – 115.293 degrees longitude to an upper point located at 46.11 degrees latitude, and – 115.294 degrees longitude.

(E) East Fork Meadow Creek from a lower point located at 45.88 degrees latitude, and – 115.103 degrees longitude to an upper point located at 45.829 degrees latitude, and – 115.027 degrees longitude. Meadow Creek from a lower point located at 46.046 degrees latitude, and – 115.295 degrees longitude to an upper point located at 45.879 degrees latitude, and – 115.212 degrees longitude. Schwar Creek from a lower point located at 45.882 degrees latitude, and – 115.116 degrees longitude to an upper point located at 45.905 degrees latitude, and – 115.108 degrees longitude.

(F) Otter Creek from a lower point located at 46.051 degrees latitude, and – 115.22 degrees longitude to an upper point located at 46.043 degrees latitude, and – 115.217 degrees longitude. Three Links Creek from a lower point located at 46.098 degrees latitude, and – 115.072 degrees longitude to an upper point located at 46.142 degrees latitude, and – 115.091 degrees longitude.

(G) Mink Creek from a lower point located at 46.098 degrees latitude, and – 115.071 degrees longitude to an upper point located at 46.008 degrees latitude, and – 115.114 degrees longitude.

(H) Marten Creek from a lower point located at 46.099 degrees latitude, and – 115.052 degrees longitude to an upper point located at 45.963 degrees latitude, and – 115.046 degrees longitude.

(I) Cedar Creek from a lower point located at 46.249 degrees latitude, and – 114.708 degrees longitude to an upper point located at 46.33 degrees latitude, and – 114.705 degrees longitude. East Fork Moose Creek from a lower point located at 46.165 degrees latitude, and – 114.897 degrees longitude to an upper point located at 46.271 degrees latitude, and – 114.679 degrees longitude. Moose Creek from a lower point located at 46.122 degrees latitude, and – 114.935 degrees longitude to an upper point located at 46.165 degrees latitude, and – 114.897 degrees longitude. North Fork Moose Creek from a lower point located at 46.165 degrees latitude, and – 114.897 degrees longitude to an upper point located at 46.274 degrees latitude, and – 114.923 degrees longitude. Rhoda Creek from a lower point located at 46.239 degrees latitude, and – 115.008 degrees longitude to an upper point located at 46.234 degrees latitude, and – 114.96 degrees longitude. Wounded Doe Creek from a lower point located at 46.239 degrees latitude, and – 115.008 degrees longitude to an upper point located at 46.3 degrees latitude, and – 115.079 degrees longitude.

(J) Pettibone Creek from a lower point located at 46.041 degrees latitude, and – 114.84 degrees longitude to an upper

point located at 46.064 degrees latitude, and – 114.796 degrees longitude.

(K) Bear Creek from a lower point located at 46.019 degrees latitude, and – 114.844 degrees longitude to an upper point located at 46.109 degrees latitude, and – 114.508 degrees longitude. Brushy Fork Creek from a lower point located at 46.003 degrees latitude, and – 114.698 degrees longitude to an upper point located at 45.989 degrees latitude, and – 114.582 degrees longitude. Cub Creek from a lower point located at 46.034 degrees latitude, and – 114.756 degrees longitude to an upper point located at 46.032 degrees latitude, and – 114.617 degrees longitude. Paradise Creek from a lower point located at 46.022 degrees latitude, and – 114.728 degrees longitude to an upper point located at 46.039 degrees latitude, and – 114.526 degrees longitude.

(L) Eagle Creek from a lower point located at 45.908 degrees latitude, and – 114.853 degrees longitude to an upper point located at 45.781 degrees latitude, and – 114.899 degrees longitude. Lynx Creek from a lower point located at 45.849 degrees latitude, and – 114.937 degrees longitude to an upper point located at 45.818 degrees latitude, and – 114.951 degrees longitude. Running Creek from a lower point located at 45.919 degrees latitude, and – 114.832 degrees longitude to an upper point located at 45.916 degrees latitude, and – 115.032 degrees longitude. South Fork Running Creek from a lower point located at 45.845 degrees latitude, and – 114.944 degrees longitude to an upper point located at 45.823 degrees latitude, and – 114.965 degrees longitude. Tom Creek from a lower point located at 45.862 degrees latitude, and – 114.986 degrees longitude to an upper point located at 45.913 degrees latitude, and – 114.984 degrees longitude.

(M) Canyon Creek from a lower point located at 45.888 degrees latitude, and – 114.613 degrees longitude to an upper point located at 45.882 degrees latitude, and – 114.408 degrees longitude. White

Cap Creek from a lower point located at 45.86 degrees latitude, and – 114.744 degrees longitude to an upper point located at 45.91 degrees latitude, and – 114.428 degrees longitude.

(N) Burnt Strip Creek from a lower point located at 45.817 degrees latitude, and – 114.626 degrees longitude to an upper point located at 45.838 degrees latitude, and – 114.588 degrees longitude. Indian Creek from a lower point located at 45.792 degrees latitude, and – 114.764 degrees longitude to an upper point located at 45.785 degrees latitude, and – 114.581 degrees longitude. Schofield Creek from a lower point located at 45.777 degrees latitude, and – 114.645 degrees longitude to an upper point located at 45.819 degrees latitude, and – 114.585 degrees longitude.

(O) Burnt Knob Creek from a lower point located at 45.715 degrees latitude, and – 114.898 degrees longitude to an upper point located at 45.697 degrees latitude, and – 114.945 degrees longitude. Flat Creek from a lower point located at 45.722 degrees latitude, and – 114.857 degrees longitude to an upper point located at 45.651 degrees latitude, and – 114.847 degrees longitude. Little Clearwater River from a lower point located at 45.754 degrees latitude, and – 114.775 degrees longitude to an upper point located at 45.738 degrees latitude, and – 114.945 degrees longitude. Salamander Creek from a lower point located at 45.711 degrees latitude, and – 114.865 degrees longitude to an upper point located at 45.648 degrees latitude, and – 114.879 degrees longitude.

(P) Magruder Creek from a lower point located at 45.745 degrees latitude, and – 114.76 degrees longitude to an upper point located at 45.726 degrees latitude, and – 114.771 degrees longitude.

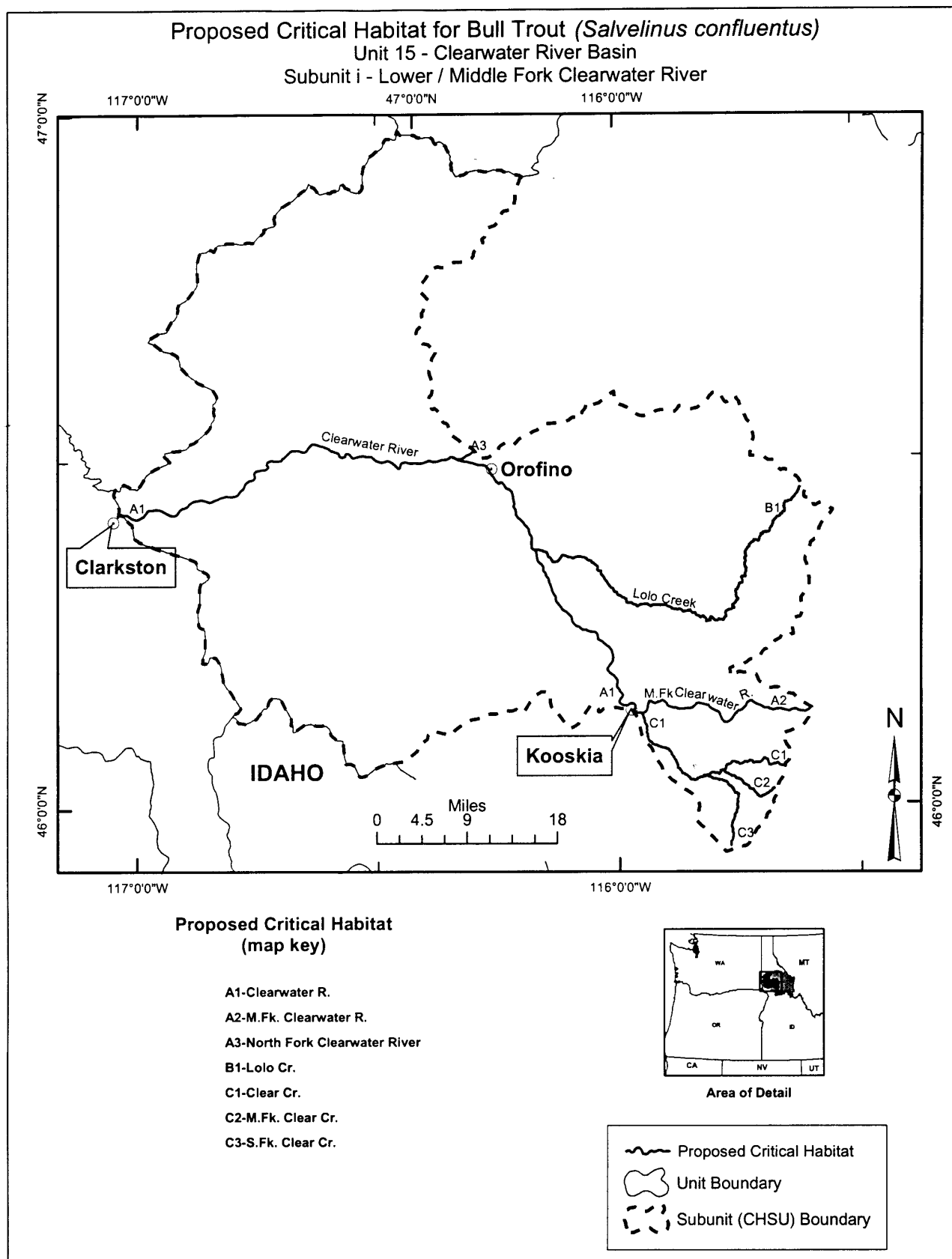
(Q) Cayuse Creek from a lower point located at 45.706 degrees latitude, and – 114.614 degrees longitude to an upper point located at 45.761 degrees latitude, and – 114.551 degrees longitude. Deep

Creek from a lower point located at 45.707 degrees latitude, and – 114.719 degrees longitude to an upper point located at 45.719 degrees latitude, and – 114.509 degrees longitude. Slow Gulch Creek from a lower point located at 45.694 degrees latitude, and – 114.56 degrees longitude to an upper point located at 45.679 degrees latitude, and – 114.545 degrees longitude. Vance Creek from a lower point located at 45.703 degrees latitude, and – 114.579 degrees longitude to an upper point located at 45.695 degrees latitude, and – 114.581 degrees longitude.

(R) French Creek from a lower point located at 45.597 degrees latitude, and – 114.591 degrees longitude to an upper point located at 45.609 degrees latitude, and – 114.561 degrees longitude. South Fork Surprise Creek from a lower point located at 45.527 degrees latitude, and – 114.679 degrees longitude to an upper point located at 45.479 degrees latitude, and – 114.664 degrees longitude. Storm Creek from a lower point located at 45.578 degrees latitude, and – 114.64 degrees longitude to an upper point located at 45.636 degrees latitude, and – 114.583 degrees longitude. Surprise Creek from a lower point located at 45.521 degrees latitude, and – 114.701 degrees longitude to an upper point located at 45.538 degrees latitude, and – 114.627 degrees longitude. Swet Creek from a lower point located at 45.58 degrees latitude, and – 114.719 degrees longitude to an upper point located at 45.501 degrees latitude, and – 114.801 degrees longitude. Wilkerson Creek from a lower point located at 45.612 degrees latitude, and – 114.706 degrees longitude to an upper point located at 45.557 degrees latitude, and – 114.585 degrees longitude.

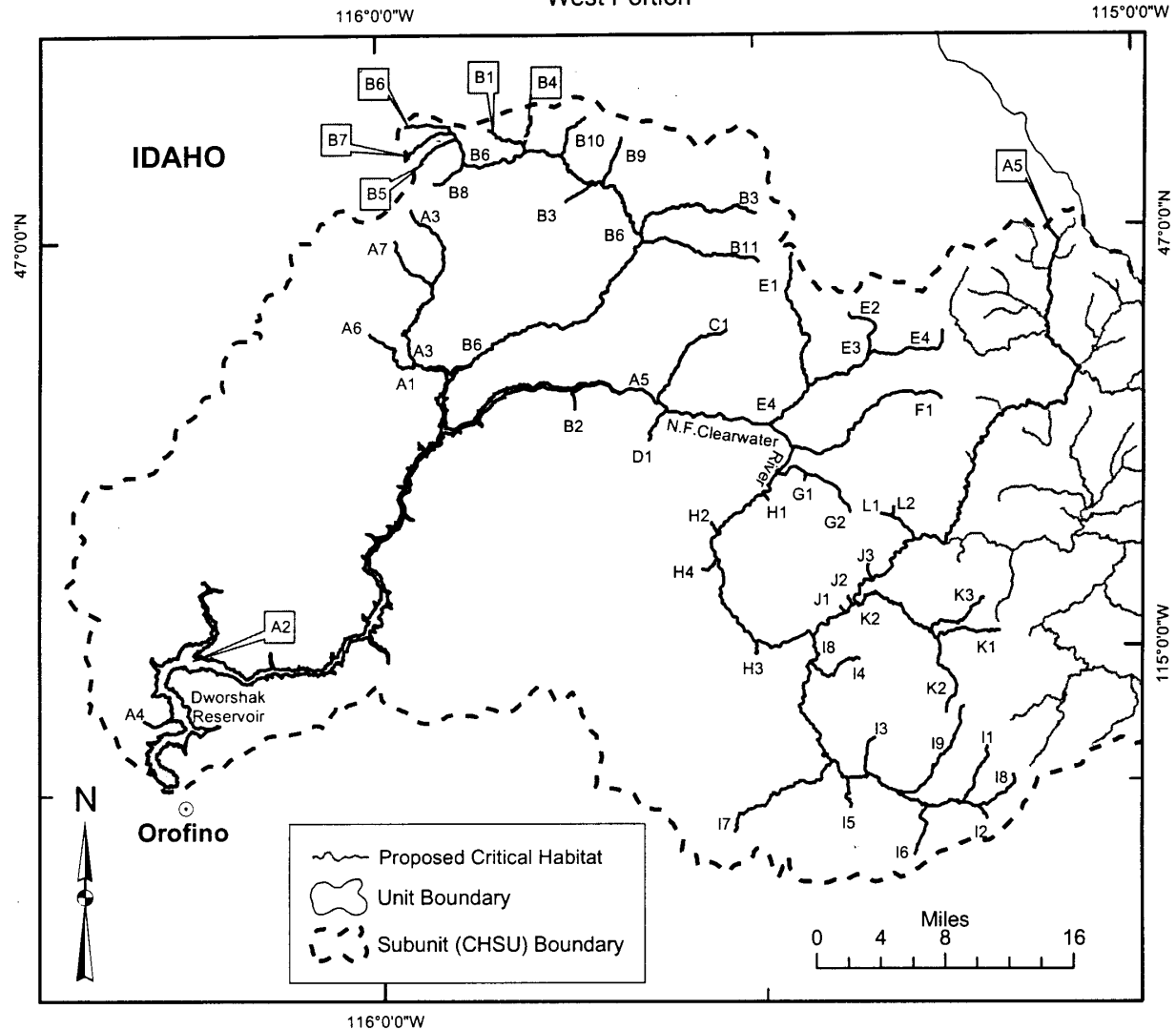
**Note:** Maps follow for Unit 15, Subunit i; Subunit ii (West portion); Subunits ii (East Portion) and iii; Subunit iv; Subunits v and vi; and Subunit vii.

**BILLING CODE 4310-55-P**



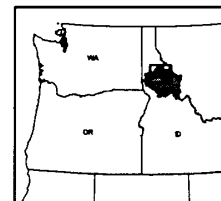
# Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

## Unit 15 - Clearwater River Basin Subunit ii - North Fork Clearwater River West Portion



### Proposed Critical Habitat (map key)

A1-Breakfast Creek	B2-Butte Creek	B12-Sawtooth Cr.	H1-Larson Cr.	I7-Middle Cr.
A2-Dworshak Reservoir	B3-Butte Creek	C1-Isabella Creek	H2-Little Washington Creek	I8-Weitas Creek
A3-Floodwood Creek	B4-Canyon Cr.	D1-Beaver Creek	H3-Orogrande Cr.	I9-Windy Cr.
A4-Freeman Cr.	B5-Jungle Cr.	D2-Sneak Cr.	H4-Washington Creek	J1-Death Cr.
A5-North Fork Clearwater River	B6-Little Lost Lake Cr.	E1-Collins Cr.	I1-Corral Cr.	J2-Fisher Cr.
A6-Stony Creek	B7-Little North Fork Clearwater River	E2-Frost Cr.	I2-Fro Cr.	J3-Trail Cr.
A7-West Fork Floodwood Creek	B8-Lost Lake Cr.	E3-Roaring Cr.	I3-Johnnagan Cr.	K1-Bill Cr.
B1-Adair Cr.	B9-Lund Creek	E4-Skull Cr.	I4-Johnny Cr.	K2-Fourth of July Creek
	B10-Montana Cr	F1-Quartz Cr.	I5-Little Weitas Cr.	K3-Shot Cr.
	B11-Rutledge Cr.	G1-Lightning Cr.	I6-Liz Cr.	L1-Cold Springs Cr.
		G2-Rock Cr.		L2-Cool Cr.

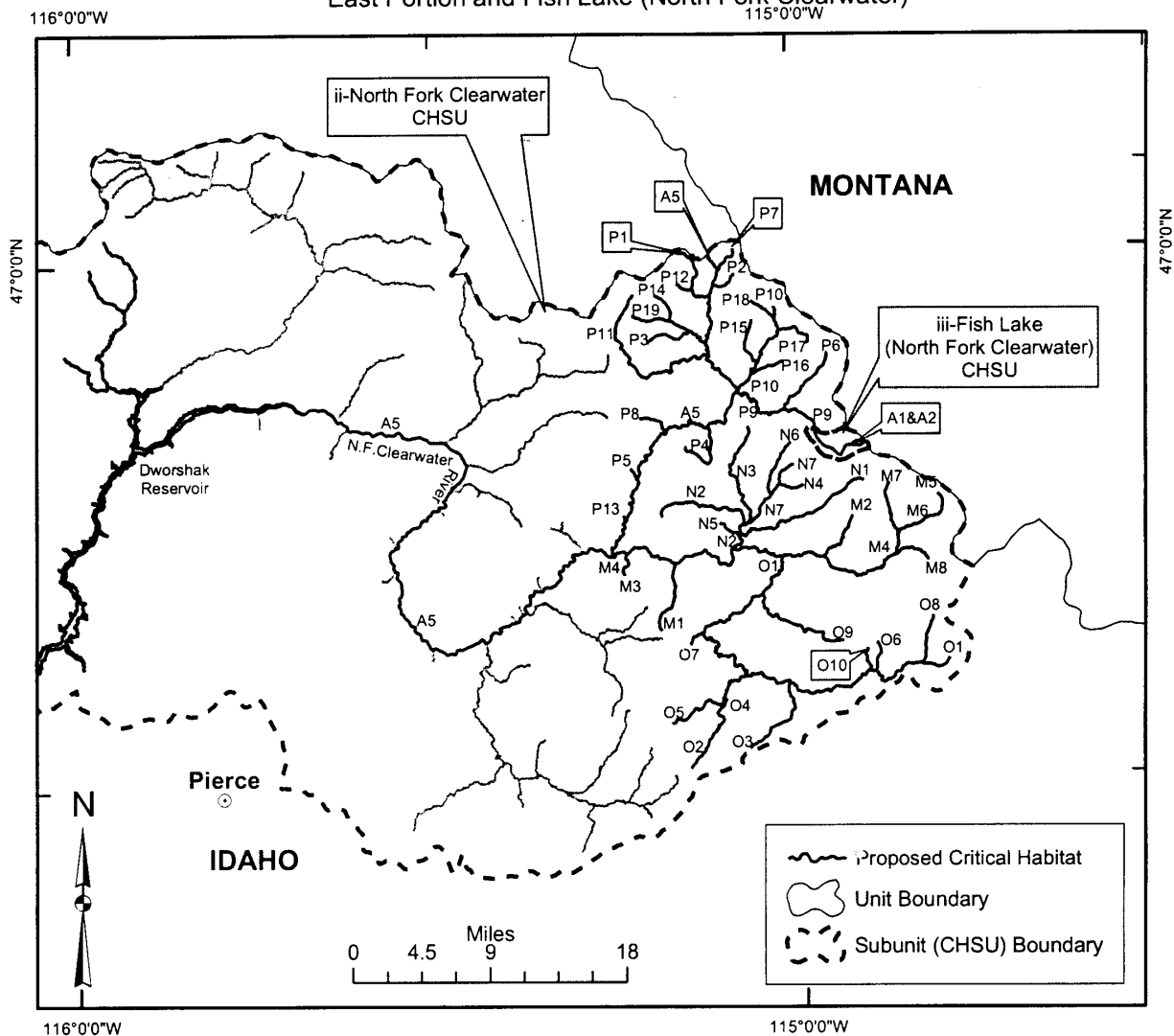


Area of Detail

# Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

## Unit 15 - Clearwater River Basin

### Subunits ii and iii - North Fork Clearwater River East Portion and Fish Lake (North Fork Clearwater)



### Proposed Critical Habitat (map key)

#### ii- North Fork Clearwater River CHSU

A5-North Fork  
Clearwater River  
M1-Barnard Cr.  
M2-Bear Creek  
M3-Junction Cr.  
M4-Kelly Creek  
M5-Kid Lake Creek  
M6-Middle Fork  
Kelly Creek  
M7-North Fork Kelly  
Creek

M8-South Fork Kelly  
Creek  
N1-Little Moose Cr.  
N2-Moose Creek  
N3-Osier Cr.  
N4-Pollock Cr.  
N5-Ruby Cr.  
N6-Sugar Cr.  
N7-Swamp Cr.  
O1-Cayuse Cr.  
O2-Gravey Cr.  
O3-Howard Cr.  
O4-Mae Cr.

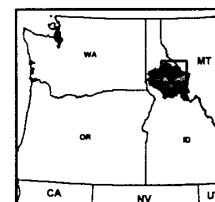
O5-Marten Cr.  
O6-Mink Cr.  
O7-Monroe Cr.  
O8-Silver Cr.  
O9-Toboggan Cr.  
O10-Weasel Cr.  
P1-Bostonian Cr.  
P2-Boundary Cr.  
P3-Chamberlain Cr.  
P4-Deception Gulch  
P5-Elizabeth Cr.  
P6-Goose Cr.

P7-Graves Creek  
P8-Hidden Cr.  
P9-Lake Creek  
P10-Long Creek  
P11-Meadow Cr.  
P12-Niagra Gulch  
P13-Pete Ott Cr.  
P14-Placer Cr.  
P15-Rawhide Cr.  
P16-Short Cr.  
P17-Slate Cr.  
P18-UNNAMED - off  
Long Creek

P19-Vanderbilt  
Gulch

#### iii-Fish Lake CHSU

A1-Fish Lake  
A2-Lake Creek

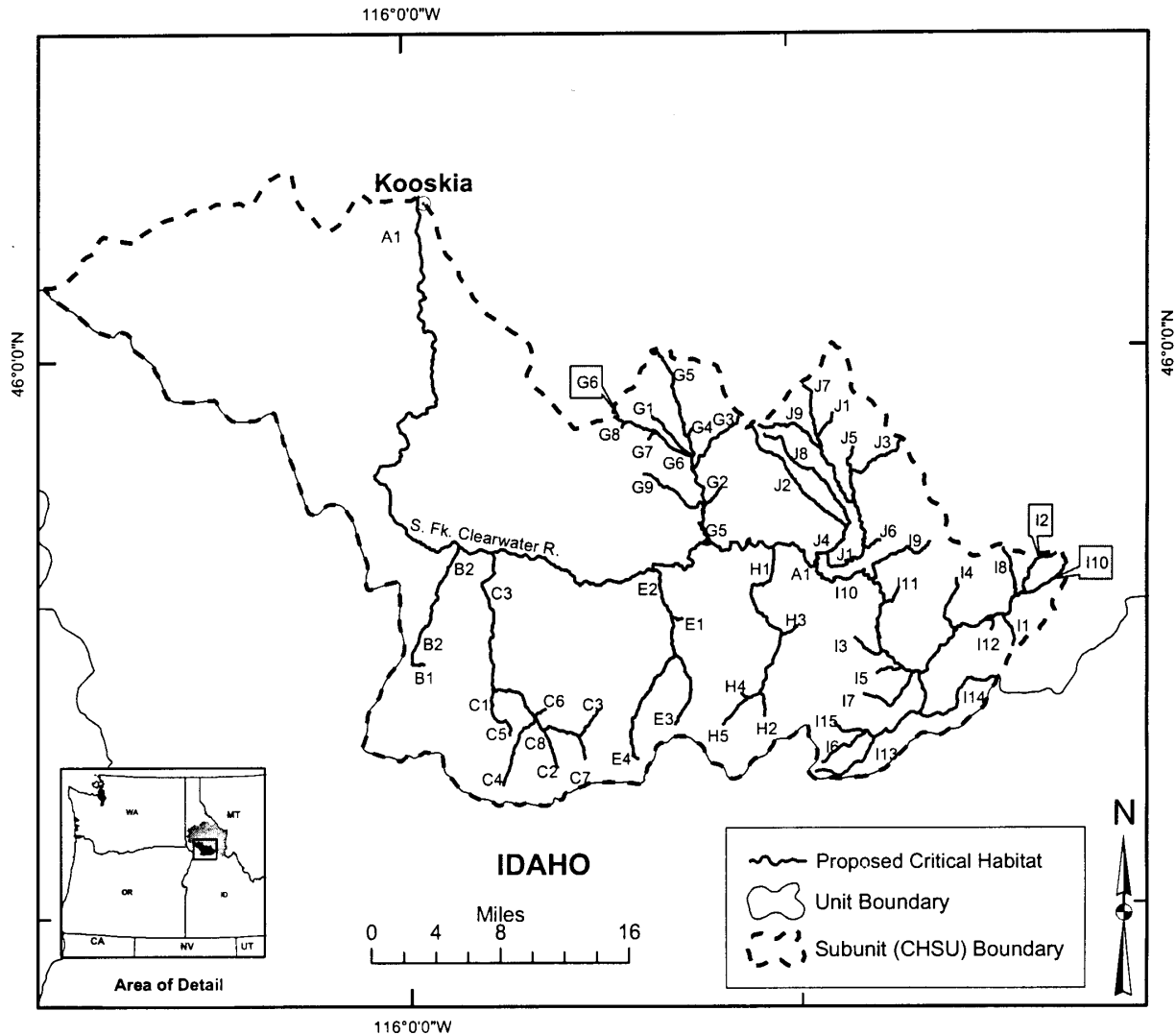


Area of Detail

# Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

## Unit 15 - Clearwater River Basin

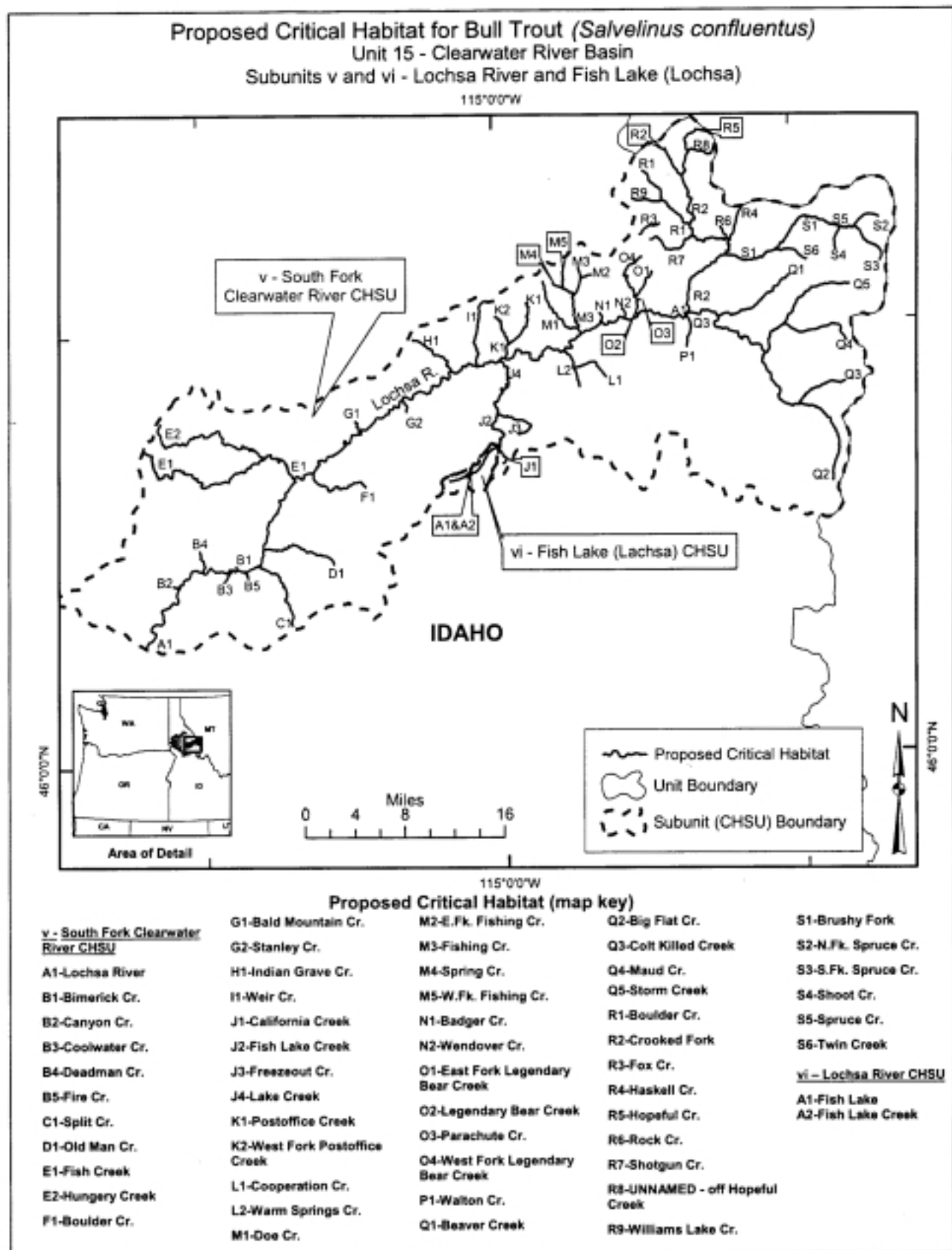
### Subunit iv - South Fork Clearwater River

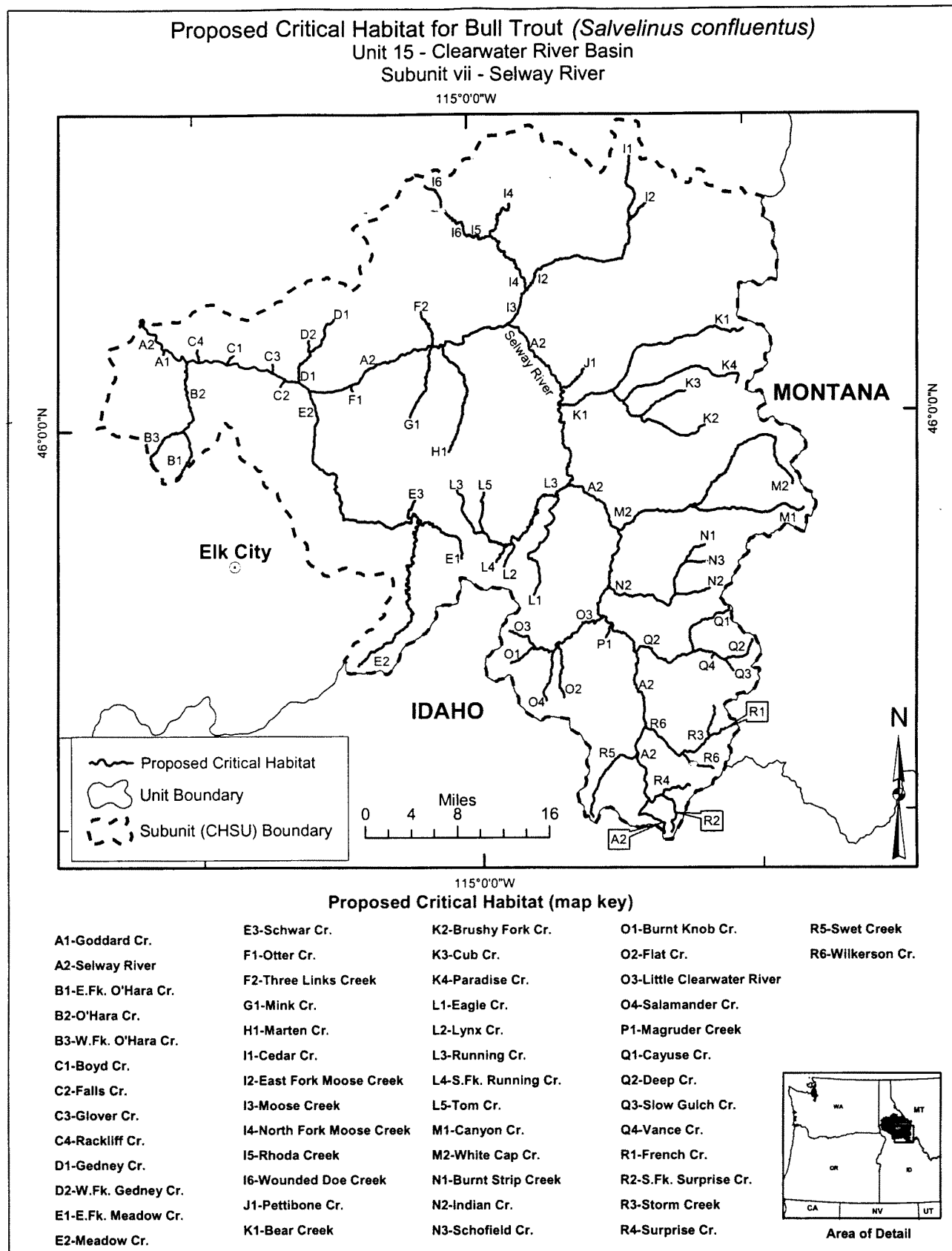


#### Proposed Critical Habitat (map key)

A1-South Fork Clearwater River	D2-Twentymile Cr.	G7-UNNAMED 1 - off Pilot Creek	I2-Bridge Cr.	I15-West Fork Red R.
B1-Merton Creek	D3-Wing Cr.	G8-UNNAMED 2 - off Pilot Creek	I3-Dawson Cr.	J1-American R.
B2-Mill Creek	E1-Sixmile Cr.	G9-West Fork Newsome Creek	I4-Ditch Cr.	J2-Big Elk Cr.
C1-Gospel Creek	E2-Tenmile Cr.	H1-Crooked River	I5-Little Moose Cr.	J3-E.Fk. American R.
C2-Hagen Cr.	E3-Williams Cr.	H2-East Fork Crooked River	I6-Middle Fork. Red R.	J4-Elk Cr.
C3-Johns Creek	E4-Wiseboy Cr.	H3-Relief Cr.	I7-Moose Butte Cr.	J5-Flint Cr.
C4-Moores Creek	F1-Buckhorn Cr.	H4-UNNAMED - off West Fork Crooked River	I8-Otterson Cr.	J6-Kirks Fk. American R.
C5-Moores Lake Creek	G1-Baldy Cr.	H5-West Fork Crooked River	I9-Red Horse Cr.	J7-Lick Cr.
C6-Open Creek	G2-Bear Creek	I1-Baston Cr.	I10-Red River	J8-Little Elk Cr.
C7-Taylor Cr.	G3-Beaver Creek		I11-Siegel Cr.	J9-W.Fk. American R.
C8-Twin Lakes Cr.	G4-Mule Creek		I12-Soda Cr.	
D1-Silver Cr.	G5-Newsome Creek		I13-South Fork Red River	
	G6-Pilot Creek		I14-Trapper Cr.	







(20) Unit 16—Salmon River Basin.

(i) Critical Habitat Subunit—Little-Salmon.

(A) Salmon River from a lower point located at 45.857 degrees latitude, and -116.794 degrees longitude to an upper point located at 45.425 degrees latitude, and -116.03 degrees longitude.

(B) Deadhorse Creek from a lower point located at 45.613 degrees latitude, and -116.066 degrees longitude to an upper point located at 45.575 degrees latitude, and -116.144 degrees longitude. Little Slate Creek from a lower point located at 45.62 degrees latitude, and -116.066 degrees longitude to an upper point located at 45.523 degrees latitude, and -116.092 degrees longitude. Slate Creek from a lower point located at 45.64 degrees latitude, and -116.284 degrees longitude to an upper point located at 45.625 degrees latitude, and -116.054 degrees longitude. Van Buren Creek from a lower point located at 45.533 degrees latitude, and -116.082 degrees longitude to an upper point located at 45.536 degrees latitude, and -116.168 degrees longitude. Willow Creek from a lower point located at 45.638 degrees latitude, and -116.109 degrees longitude to an upper point located at 45.65 degrees latitude, and -116.088 degrees longitude.

(C) East Fork John Day Creek from a lower point located at 45.573 degrees latitude, and -116.229 degrees longitude to an upper point located at 45.577 degrees latitude, and -116.153 degrees longitude. John Day Creek from a lower point located at 45.586 degrees latitude, and -116.295 degrees longitude to an upper point located at 45.521 degrees latitude, and -116.195 degrees longitude.

(D) Little Salmon River from a lower point located at 45.417 degrees latitude, and -116.313 degrees longitude to an upper point located at 45.138 degrees latitude, and -116.282 degrees longitude.

(E) Granite Fork Lake Fork Rapid River from a lower point located at 45.187 degrees latitude, and -116.517 degrees longitude to an upper point located at 45.151 degrees latitude, and -116.552 degrees longitude. Lake Fork Rapid River from a lower point located at 45.187 degrees latitude, and -116.482 degrees longitude to an upper point located at 45.19 degrees latitude, and -116.557 degrees longitude. Rapid River from a lower point located at 45.375 degrees latitude, and -116.355 degrees longitude to an upper point located at 45.114 degrees latitude, and -116.506 degrees longitude. West Fork Rapid River from a lower point located at 45.307 degrees latitude, and -116.419

degrees longitude to an upper point located at 45.23 degrees latitude, and -116.537 degrees longitude.

(F) Boulder Creek from a lower point located at 45.204 degrees latitude, and -116.31 degrees longitude to an upper point located at 45.129 degrees latitude, and -116.475 degrees longitude. Yellow Jacket Creek from a lower point located at 45.137 degrees latitude, and -116.412 degrees longitude to an upper point located at 45.146 degrees latitude, and -116.444 degrees longitude.

(G) Hard Creek from a lower point located at 45.183 degrees latitude, and -116.283 degrees longitude to an upper point located at 45.125 degrees latitude, and -116.239 degrees longitude. Hazard Creek from a lower point located at 45.184 degrees latitude, and -116.3 degrees longitude to an upper point located at 45.222 degrees latitude, and -116.139 degrees longitude.

(H) Lake Creek from a lower point located at 45.4 degrees latitude, and -116.212 degrees longitude to an upper point located at 45.294 degrees latitude, and -116.219 degrees longitude.

(I) Partridge Creek from a lower point located at 45.408 degrees latitude, and -116.126 degrees longitude to an upper point located at 45.288 degrees latitude, and -116.217 degrees longitude.

(J) Elkhorn Creek from a lower point located at 45.404 degrees latitude, and -116.094 degrees longitude to an upper point located at 45.27 degrees latitude, and -116.121 degrees longitude.

(K) French Creek from a lower point located at 45.425 degrees latitude, and -116.03 degrees longitude to an upper point located at 45.158 degrees latitude, and -116.084 degrees longitude. North Creek from a lower point located at 45.286 degrees latitude, and -116.044 degrees longitude to an upper point located at 45.259 degrees latitude, and -115.988 degrees longitude.

(ii) Critical Habitat Subunit—Middle Salmon—Chamberlain.

(A) Salmon River from a lower point located at 45.425 degrees latitude, and -116.03 degrees longitude to an upper point located at 45.454 degrees latitude, and -114.931 degrees longitude.

(B) East Fork Fall Creek from a lower point located at 45.415 degrees latitude, and -115.976 degrees longitude to an upper point located at 45.36 degrees latitude, and -115.963 degrees longitude. Fall Creek from a lower point located at 45.433 degrees latitude, and -115.983 degrees longitude to an upper point located at 45.331 degrees latitude, and -115.995 degrees longitude.

(C) Wind River from a lower point located at 45.455 degrees latitude, and -115.941 degrees longitude to an upper

point located at 45.605 degrees latitude, and -115.917 degrees longitude.

(D) Sheep Creek from a lower point located at 45.468 degrees latitude, and -115.81 degrees longitude to an upper point located at 45.614 degrees latitude, and -115.696 degrees longitude.

(E) California Creek from a lower point located at 45.448 degrees latitude, and -115.759 degrees longitude to an upper point located at 45.341 degrees latitude, and -115.85 degrees longitude.

(F) Crooked Creek from a lower point located at 45.434 degrees latitude, and -115.666 degrees longitude to an upper point located at 45.612 degrees latitude, and -115.438 degrees longitude. Lake Creek from a lower point located at 45.514 degrees latitude, and -115.574 degrees longitude to an upper point located at 45.616 degrees latitude, and -115.686 degrees longitude.

(G) Guard Creek from a lower point located at 45.293 degrees latitude, and -115.695 degrees longitude to an upper point located at 45.309 degrees latitude, and -115.658 degrees longitude.

Mayflower Creek from a lower point located at 45.248 degrees latitude, and -115.653 degrees longitude to an upper point located at 45.259 degrees latitude, and -115.601 degrees longitude.

Schissler Creek from a lower point located at 45.328 degrees latitude, and -115.707 degrees longitude to an upper point located at 45.321 degrees latitude, and -115.779 degrees longitude.

Slaughter Creek from a lower point located at 45.261 degrees latitude, and -115.672 degrees longitude to an upper point located at 45.297 degrees latitude, and -115.609 degrees longitude. Warren Creek from a lower point located at 45.397 degrees latitude, and -115.592 degrees longitude to an upper point located at 45.22 degrees latitude, and -115.677 degrees longitude. Webfoot Creek from a lower point located at 45.237 degrees latitude, and -115.675 degrees longitude to an upper point located at 45.217 degrees latitude, and -115.695 degrees longitude.

(H) Rhett Creek from a lower point located at 45.472 degrees latitude, and -115.393 degrees longitude to an upper point located at 45.476 degrees latitude, and -115.407 degrees longitude.

(I) Little Mallard Creek from a lower point located at 45.529 degrees latitude, and -115.303 degrees longitude to an upper point located at 45.533 degrees latitude, and -115.311 degrees longitude.

(J) Big Mallard Creek from a lower point located at 45.537 degrees latitude, and -115.269 degrees longitude to an upper point located at 45.543 degrees latitude, and -115.279 degrees longitude.

(K) Bargamin Creek from a lower point located at 45.567 degrees latitude, and – 115.191 degrees longitude to an upper point located at 45.771 degrees latitude, and – 114.934 degrees longitude.

(L) Sabe Creek from a lower point located at 45.507 degrees latitude, and – 115.024 degrees longitude to an upper point located at 45.681 degrees latitude, and – 114.948 degrees longitude.

(M) Big Harrington Creek from a lower point located at 45.473 degrees latitude, and – 114.963 degrees longitude to an upper point located at 45.518 degrees latitude, and – 114.823 degrees longitude.

(N) Chamberlain Creek from a lower point located at 45.454 degrees latitude, and – 114.931 degrees longitude to an upper point located at 45.336 degrees latitude, and – 115.329 degrees longitude. Game Creek from a lower point located at 45.398 degrees latitude, and – 115.192 degrees longitude to an upper point located at 45.404 degrees latitude, and – 115.274 degrees longitude. McCalla Creek from a lower point located at 45.414 degrees latitude, and – 114.981 degrees longitude to an upper point located at 45.255 degrees latitude, and – 115.127 degrees longitude. Moose Creek from a lower point located at 45.356 degrees latitude, and – 115.249 degrees longitude to an upper point located at 45.283 degrees latitude, and – 115.292 degrees longitude. Rim Creek from a lower point located at 45.336 degrees latitude, and – 115.329 degrees longitude to an upper point located at 45.281 degrees latitude, and – 115.382 degrees longitude. South Fork Chamberlain Creek from a lower point located at 45.336 degrees latitude, and – 115.329 degrees longitude to an upper point located at 45.282 degrees latitude, and – 115.351 degrees longitude. West Fork Chamberlain Creek from a lower point located at 45.383 degrees latitude, and – 115.166 degrees longitude to an upper point located at 45.463 degrees latitude, and – 115.184 degrees longitude. Whimstick Creek from a lower point located at 45.378 degrees latitude, and – 114.999 degrees longitude to an upper point located at 45.241 degrees latitude, and – 115.053 degrees longitude.

(iii) Critical Habitat Subunit—South Fork Salmon River.

(A) South Fork Salmon River from a lower point located at 45.378 degrees latitude, and – 115.512 degrees longitude to an upper point located at 44.494 degrees latitude, and – 115.735 degrees longitude.

(B) Pony Creek from a lower point located at 45.187 degrees latitude, and – 115.562 degrees longitude to an upper

point located at 45.179 degrees latitude, and – 115.703 degrees longitude.

(C) Elk Creek from a lower point located at 45.156 degrees latitude, and – 115.585 degrees longitude to an upper point located at 45.157 degrees latitude, and – 115.431 degrees longitude. South Fork Elk Creek from a lower point located at 45.095 degrees latitude, and – 115.513 degrees longitude to an upper point located at 45.069 degrees latitude, and – 115.482 degrees longitude. West Fork Elk Creek from a lower point located at 45.147 degrees latitude, and – 115.511 degrees longitude to an upper point located at 45.061 degrees latitude, and – 115.519 degrees longitude.

(D) Flat Creek from a lower point located at 45.271 degrees latitude, and – 115.836 degrees longitude to an upper point located at 45.302 degrees latitude, and – 115.879 degrees longitude. Grouse Creek from a lower point located at 45.265 degrees latitude, and – 115.83 degrees longitude to an upper point located at 45.317 degrees latitude, and – 115.816 degrees longitude. Hum Creek from a lower point located at 45.049 degrees latitude, and – 115.897 degrees longitude to an upper point located at 45.07 degrees latitude, and – 115.903 degrees longitude. Josephine Creek from a lower point located at 45.224 degrees latitude, and – 115.929 degrees longitude to an upper point located at 45.225 degrees latitude, and – 115.97 degrees longitude. Lake Creek from a lower point located at 45.256 degrees latitude, and – 115.896 degrees longitude to an upper point located at 45.374 degrees latitude, and – 115.867 degrees longitude. Lick Creek from a lower point located at 45.062 degrees latitude, and – 115.761 degrees longitude to an upper point located at 45.058 degrees latitude, and – 115.932 degrees longitude. Loon Creek from a lower point located at 45.17 degrees latitude, and – 115.808 degrees longitude to an upper point located at 45.082 degrees latitude, and – 115.916 degrees longitude. Nethker Creek from a lower point located at 45.265 degrees latitude, and – 115.905 degrees longitude to an upper point located at 45.25 degrees latitude, and – 115.971 degrees longitude. Ruby Creek from a lower point located at 45.258 degrees latitude, and – 115.878 degrees longitude to an upper point located at 45.19 degrees latitude, and – 115.914 degrees longitude. Sand Creek from a lower point located at 45.307 degrees latitude, and – 115.82 degrees longitude to an upper point located at 45.327 degrees latitude, and – 115.862 degrees longitude. Secesh River from a lower point located at 45.025 degrees latitude, and – 115.706 degrees longitude to an

upper point located at 45.256 degrees latitude, and – 115.896 degrees longitude. Summit Creek from a lower point located at 45.256 degrees latitude, and – 115.896 degrees longitude to an upper point located at 45.172 degrees latitude, and – 115.915 degrees longitude. Threemile Creek from a lower point located at 45.299 degrees latitude, and – 115.929 degrees longitude to an upper point located at 45.334 degrees latitude, and – 115.891 degrees longitude. Victor Creek from a lower point located at 45.183 degrees latitude, and – 115.821 degrees longitude to an upper point located at 45.147 degrees latitude, and – 115.936 degrees longitude. Willow Basket Creek from a lower point located at 45.186 degrees latitude, and – 115.831 degrees longitude to an upper point located at 45.192 degrees latitude, and – 115.894 degrees longitude. Willow Creek from a lower point located at 45.331 degrees latitude, and – 115.949 degrees longitude to an upper point located at 45.356 degrees latitude, and – 115.857 degrees longitude.

(E) Bum Creek from a lower point located at 44.995 degrees latitude, and – 115.318 degrees longitude to an upper point located at 45.036 degrees latitude, and – 115.286 degrees longitude. Cane Creek from a lower point located at 44.953 degrees latitude, and – 115.291 degrees longitude to an upper point located at 44.978 degrees latitude, and – 115.261 degrees longitude. Cinnabar Creek from a lower point located at 44.952 degrees latitude, and – 115.293 degrees longitude to an upper point located at 44.912 degrees latitude, and – 115.266 degrees longitude. East Fork South Fork Salmon River from a lower point located at 45.015 degrees latitude, and – 115.713 degrees longitude to an upper point located at 44.886 degrees latitude, and – 115.256 degrees longitude. Meadow Creek from a lower point located at 44.902 degrees latitude, and – 115.327 degrees longitude to an upper point located at 44.864 degrees latitude, and – 115.372 degrees longitude. Missouri Creek from a lower point located at 45.007 degrees latitude, and – 115.394 degrees longitude to an upper point located at 45.028 degrees latitude, and – 115.351 degrees longitude. Profile Creek from a lower point located at 44.958 degrees latitude, and – 115.428 degrees longitude to an upper point located at 45.053 degrees latitude, and – 115.416 degrees longitude. Quartz Creek from a lower point located at 44.97 degrees latitude, and – 115.477 degrees longitude to an upper point located at 45.048 degrees latitude, and – 115.496 degrees

longitude. Salt Creek from a lower point located at 44.95 degrees latitude, and –115.352 degrees longitude to an upper point located at 44.973 degrees latitude, and –115.324 degrees longitude. Sugar Creek from a lower point located at 44.936 degrees latitude, and –115.336 degrees longitude to an upper point located at 44.975 degrees latitude, and –115.245 degrees longitude. Tamarack Creek from a lower point located at 44.959 degrees latitude, and –115.389 degrees longitude to an upper point located at 44.984 degrees latitude, and –115.27 degrees longitude.

(F) Buck Creek from a lower point located at 44.792 degrees latitude, and –115.518 degrees longitude to an upper point located at 44.751 degrees latitude, and –115.479 degrees longitude. Burntlog Creek from a lower point located at 44.803 degrees latitude, and –115.518 degrees longitude to an upper point located at 44.718 degrees latitude, and –115.419 degrees longitude. East Fork Burntlog Creek from a lower point located at 44.737 degrees latitude, and –115.501 degrees longitude to an upper point located at 44.73 degrees latitude, and –115.426 degrees longitude. Johnson Creek from a lower point located at 44.963 degrees latitude, and –115.501 degrees longitude to an upper point located at 44.55 degrees latitude, and –115.59 degrees longitude. Riordan Creek from a lower point located at 44.907 degrees latitude, and –115.485 degrees longitude to an upper point located at 44.808 degrees latitude, and –115.392 degrees longitude. Riordan Lake centered at 44.85 degrees latitude, and –115.438 degrees longitude. Trapper Creek from a lower point located at 44.832 degrees latitude, and –115.513 degrees longitude to an upper point located at 44.774 degrees latitude, and –115.404 degrees longitude. Unnamed creek off East Fork Burntlog Creek from a lower point located at 44.74 degrees latitude, and –115.458 degrees longitude to an upper point located at 44.764 degrees latitude, and –115.44 degrees longitude. Unnamed creek off Trapper Creek from a lower point located at 44.793 degrees latitude, and –115.464 degrees longitude to an upper point located at 44.772 degrees latitude, and –115.433 degrees longitude.

(G) Bear Creek from a lower point located at 44.623 degrees latitude, and –115.69 degrees longitude to an upper point located at 44.607 degrees latitude, and –115.6 degrees longitude. Blackmare Creek from a lower point located at 44.823 degrees latitude, and –115.703 degrees longitude to an upper point located at 44.809 degrees latitude, and –115.795 degrees longitude.

Buckhorn Creek from a lower point located at 44.922 degrees latitude, and –115.736 degrees longitude to an upper point located at 44.853 degrees latitude, and –115.886 degrees longitude. Cabin Creek from a lower point located at 44.667 degrees latitude, and –115.685 degrees longitude to an upper point located at 44.703 degrees latitude, and –115.647 degrees longitude. Cougar Creek from a lower point located at 44.889 degrees latitude, and –115.716 degrees longitude to an upper point located at 44.81 degrees latitude, and –115.804 degrees longitude. Curtis Creek from a lower point located at 44.652 degrees latitude, and –115.703 degrees longitude to an upper point located at 44.562 degrees latitude, and –115.759 degrees longitude. Fitsum Creek from a lower point located at 44.999 degrees latitude, and –115.722 degrees longitude to an upper point located at 45 degrees latitude, and –115.762 degrees longitude. Fourmile Creek from a lower point located at 44.857 degrees latitude, and –115.695 degrees longitude to an upper point located at 44.798 degrees latitude, and –115.621 degrees longitude. Little Buckhorn Creek from a lower point located at 44.914 degrees latitude, and –115.75 degrees longitude to an upper point located at 44.865 degrees latitude, and –115.8 degrees longitude. Lodgepole Creek from a lower point located at 44.593 degrees latitude, and –115.686 degrees longitude to an upper point located at 44.576 degrees latitude, and –115.61 degrees longitude. Mormon Creek from a lower point located at 44.524 degrees latitude, and –115.695 degrees longitude to an upper point located at 44.499 degrees latitude, and –115.654 degrees longitude. North Fork Fitsum Creek from a lower point located at 44.999 degrees latitude, and –115.759 degrees longitude to an upper point located at 44.986 degrees latitude, and –115.883 degrees longitude. Reeves Creek from a lower point located at 44.668 degrees latitude, and –115.666 degrees longitude to an upper point located at 44.686 degrees latitude, and –115.618 degrees longitude. Rice Creek from a lower point located at 44.575 degrees latitude, and –115.685 degrees longitude to an upper point located at 44.51 degrees latitude, and –115.644 degrees longitude. Six-Bit Creek from a lower point located at 44.686 degrees latitude, and –115.706 degrees longitude to an upper point located at 44.646 degrees latitude, and –115.808 degrees longitude. South Fork Blackmare Creek from a lower point located at 44.809 degrees latitude, and –115.747 degrees longitude to an upper point located at

44.77 degrees latitude, and –115.803 degrees longitude. South Fork Buckhorn Creek from a lower point located at 44.89 degrees latitude, and –115.823 degrees longitude to an upper point located at 44.84 degrees latitude, and –115.823 degrees longitude. Trail Creek from a lower point located at 44.635 degrees latitude, and –115.717 degrees longitude to an upper point located at 44.628 degrees latitude, and –115.79 degrees longitude. Tyndall Creek from a lower point located at 44.58 degrees latitude, and –115.684 degrees longitude to an upper point located at 44.562 degrees latitude, and –115.748 degrees longitude. Unnamed creek off Rice Creek from a lower point located at 44.551 degrees latitude, and –115.655 degrees longitude to an upper point located at 44.561 degrees latitude, and –115.643 degrees longitude. Unnamed creek off South Fork Salmon River from a lower point located at 44.556 degrees latitude, and –115.682 degrees longitude to an upper point located at 44.552 degrees latitude, and –115.706 degrees longitude. Unnamed creek off Trail Creek from a lower point located at 44.626 degrees latitude, and –115.745 degrees longitude to an upper point located at 44.599 degrees latitude, and –115.802 degrees longitude. Unnamed creek 1 off Curtis Creek from a lower point located at 44.61 degrees latitude, and –115.745 degrees longitude to an upper point located at 44.586 degrees latitude, and –115.803 degrees longitude. Unnamed creek 2 off Curtis Creek from a lower point located at 44.595 degrees latitude, and –115.752 degrees longitude to an upper point located at 44.568 degrees latitude, and –115.793 degrees longitude. Warm Lake centered at 44.645 degrees latitude, and –115.669 degrees longitude. Warm Lake Creek from a lower point located at 44.666 degrees latitude, and –115.698 degrees longitude to an upper point located at 44.653 degrees latitude, and –115.661 degrees longitude.

(iv) Critical Habitat Subunit—Middle Fork Salmon River.

(A) Middle Fork Salmon River from a lower point located at 45.297 degrees latitude, and –114.591 degrees longitude to an upper point located at 44.449 degrees latitude, and –115.23 degrees longitude.

(B) Beaver Creek from a lower point located at 45.163 degrees latitude, and –115.242 degrees longitude to an upper point located at 45.242 degrees latitude, and –115.314 degrees longitude. Belvidere Creek from a lower point located at 45.07 degrees latitude, and –115.364 degrees longitude to an upper point located at 45.041 degrees latitude, and –115.386 degrees longitude. Big

Creek from a lower point located at 45.095 degrees latitude, and -114.732 degrees longitude to an upper point located at 45.06 degrees latitude, and -115.451 degrees longitude. Big Ramey Creek from a lower point located at 45.177 degrees latitude, and -115.159 degrees longitude to an upper point located at 45.279 degrees latitude, and -115.243 degrees longitude. Boulder Creek from a lower point located at 45.242 degrees latitude, and -115.314 degrees longitude to an upper point located at 45.277 degrees latitude, and -115.34 degrees longitude. Cabin Creek from a lower point located at 45.127 degrees latitude, and -114.935 degrees longitude to an upper point located at 45.195 degrees latitude, and -114.837 degrees longitude. Cave Creek from a lower point located at 45.132 degrees latitude, and -114.955 degrees longitude to an upper point located at 45.24 degrees latitude, and -114.846 degrees longitude. Crooked Creek from a lower point located at 45.163 degrees latitude, and -115.128 degrees longitude to an upper point located at 45.195 degrees latitude, and -115.031 degrees longitude. East Fork Big Ramey Creek from a lower point located at 45.214 degrees latitude, and -115.187 degrees longitude to an upper point located at 45.245 degrees latitude, and -115.136 degrees longitude. Hand Creek from a lower point located at 45.228 degrees latitude, and -115.3 degrees longitude to an upper point located at 45.287 degrees latitude, and -115.245 degrees longitude. Logan Creek from a lower point located at 45.118 degrees latitude, and -115.319 degrees longitude to an upper point located at 45.072 degrees latitude, and -115.455 degrees longitude. Middle Fork Smith Creek from a lower point located at 45.17 degrees latitude, and -115.38 degrees longitude to an upper point located at 45.157 degrees latitude, and -115.412 degrees longitude. Monumental Creek from a lower point located at 45.16 degrees latitude, and -115.129 degrees longitude to an upper point located at 44.904 degrees latitude, and -115.262 degrees longitude. Rush Creek from a lower point located at 45.105 degrees latitude, and -114.861 degrees longitude to an upper point located at 44.933 degrees latitude, and -114.99 degrees longitude. Smith Creek from a lower point located at 45.153 degrees latitude, and -115.297 degrees longitude to an upper point located at 45.17 degrees latitude, and -115.38 degrees longitude. Snowslide Creek from a lower point located at 45.098 degrees latitude, and -115.156 degrees longitude to an upper point located at 45.045 degrees latitude,

and -115.281 degrees longitude. South Fork Rush Creek from a lower point located at 45.014 degrees latitude, and -114.978 degrees longitude to an upper point located at 44.965 degrees latitude, and -114.928 degrees longitude. South Fork Smith Creek from a lower point located at 45.17 degrees latitude, and -115.38 degrees longitude to an upper point located at 45.149 degrees latitude, and -115.419 degrees longitude. West Fork Monumental Creek from a lower point located at 45.005 degrees latitude, and -115.139 degrees longitude to an upper point located at 45.034 degrees latitude, and -115.275 degrees longitude.

(C) Wilson Creek from a lower point located at 45.033 degrees latitude, and -114.723 degrees longitude to an upper point located at 45.143 degrees latitude, and -114.589 degrees longitude.

(D) Soldier Creek from a lower point located at 45.029 degrees latitude, and -114.726 degrees longitude to an upper point located at 45.007 degrees latitude, and -114.881 degrees longitude.

(E) Brush Creek from a lower point located at 44.955 degrees latitude, and -114.733 degrees longitude to an upper point located at 44.965 degrees latitude, and -114.859 degrees longitude.

(F) Sheep Creek from a lower point located at 44.943 degrees latitude, and -114.726 degrees longitude to an upper point located at 44.915 degrees latitude, and -114.903 degrees longitude.

(G) Arrastra Creek from a lower point located at 44.868 degrees latitude, and -114.425 degrees longitude to an upper point located at 44.841 degrees latitude, and -114.35 degrees longitude.

Birdseye Creek from a lower point located at 44.927 degrees latitude, and -114.384 degrees longitude to an upper point located at 44.938 degrees latitude, and -114.456 degrees longitude. Blue Fork Silver Creek from a lower point located at 44.883 degrees latitude, and -114.354 degrees longitude to an upper point located at 44.854 degrees latitude, and -114.359 degrees longitude. Camas Creek from a lower point located at 44.892 degrees latitude, and -114.722 degrees longitude to an upper point located at 44.708 degrees latitude, and -114.387 degrees longitude. Castle Creek from a lower point located at 44.801 degrees latitude, and -114.471 degrees longitude to an upper point located at 44.826 degrees latitude, and -114.312 degrees longitude. Fly Creek from a lower point located at 44.705 degrees latitude, and -114.496 degrees longitude to an upper point located at 44.67 degrees latitude, and -114.55 degrees longitude. Furnace Creek from a lower point located at 44.767 degrees latitude, and -114.486 degrees

longitude to an upper point located at 44.789 degrees latitude, and -114.343 degrees longitude. Hoodoo Creek from a lower point located at 44.953 degrees latitude, and -114.581 degrees longitude to an upper point located at 45.06 degrees latitude, and -114.552 degrees longitude. J Fell Creek from a lower point located at 44.684 degrees latitude, and -114.458 degrees longitude to an upper point located at 44.615 degrees latitude, and -114.461 degrees longitude. Lake Creek from a lower point located at 44.948 degrees latitude, and -114.591 degrees longitude to an upper point located at 44.981 degrees latitude, and -114.645 degrees longitude. Little Jacket Creek from a lower point located at 44.953 degrees latitude, and -114.566 degrees longitude to an upper point located at 44.926 degrees latitude, and -114.478 degrees longitude. Pole Creek from a lower point located at 44.794 degrees latitude, and -114.594 degrees longitude to an upper point located at 44.763 degrees latitude, and -114.674 degrees longitude. Shovel Creek from a lower point located at 45 degrees latitude, and -114.478 degrees longitude to an upper point located at 45.034 degrees latitude, and -114.443 degrees longitude. Silver Creek from a lower point located at 44.83 degrees latitude, and -114.501 degrees longitude to an upper point located at 44.852 degrees latitude, and -114.343 degrees longitude. South Fork Camas Creek from a lower point located at 44.721 degrees latitude, and -114.498 degrees longitude to an upper point located at 44.73 degrees latitude, and -114.64 degrees longitude. West Fork Camas Creek from a lower point located at 44.831 degrees latitude, and -114.504 degrees longitude to an upper point located at 44.819 degrees latitude, and -114.654 degrees longitude. White Goat Creek from a lower point located at 44.741 degrees latitude, and -114.488 degrees longitude to an upper point located at 44.726 degrees latitude, and -114.415 degrees longitude. Woodtick Creek from a lower point located at 44.884 degrees latitude, and -114.625 degrees longitude to an upper point located at 44.809 degrees latitude, and -114.679 degrees longitude. Yellowjacket Creek from a lower point located at 44.892 degrees latitude, and -114.644 degrees longitude to an upper point located at 45.103 degrees latitude, and -114.535 degrees longitude.

(H) Norton Creek from a lower point located at 44.827 degrees latitude, and -114.794 degrees longitude to an upper point located at 44.89 degrees latitude, and -114.901 degrees longitude.

(I) Bear Creek from a lower point located at 44.742 degrees latitude, and – 114.817 degrees longitude to an upper point located at 44.735 degrees latitude, and – 114.861 degrees longitude. Cabin Creek from a lower point located at 44.691 degrees latitude, and – 114.753 degrees longitude to an upper point located at 44.76 degrees latitude, and – 114.692 degrees longitude. Cache Creek from a lower point located at 44.801 degrees latitude, and – 114.805 degrees longitude to an upper point located at 44.776 degrees latitude, and – 114.687 degrees longitude. Canyon Creek from a lower point located at 44.568 degrees latitude, and – 114.846 degrees longitude to an upper point located at 44.59 degrees latitude, and – 114.871 degrees longitude. Cat Creek from a lower point located at 44.652 degrees latitude, and – 114.628 degrees longitude to an upper point located at 44.633 degrees latitude, and – 114.648 degrees longitude. Cold Spring Creek from a lower point located at 44.718 degrees latitude, and – 114.799 degrees longitude to an upper point located at 44.682 degrees latitude, and – 114.84 degrees longitude. Cottonwood Creek from a lower point located at 44.623 degrees latitude, and – 114.76 degrees longitude to an upper point located at 44.593 degrees latitude, and – 114.679 degrees longitude. Deer Creek from a lower point located at 44.548 degrees latitude, and – 114.854 degrees longitude to an upper point located at 44.568 degrees latitude, and – 114.881 degrees longitude. East Fork Mayfield Creek from a lower point located at 44.539 degrees latitude, and – 114.797 degrees longitude to an upper point located at 44.48 degrees latitude, and – 114.713 degrees longitude. Fir Creek from a lower point located at 44.656 degrees latitude, and – 114.697 degrees longitude to an upper point located at 44.64 degrees latitude, and – 114.685 degrees longitude. Indian Creek from a lower point located at 44.692 degrees latitude, and – 114.754 degrees longitude to an upper point located at 44.672 degrees latitude, and – 114.839 degrees longitude. Jack Creek from a lower point located at 44.696 degrees latitude, and – 114.76 degrees longitude to an upper point located at 44.689 degrees latitude, and – 114.792 degrees longitude. Loon Creek from a lower point located at 44.808 degrees latitude, and – 114.811 degrees longitude to an upper point located at 44.444 degrees latitude, and – 114.941 degrees longitude. Mahoney Creek from a lower point located at 44.638 degrees latitude, and – 114.609 degrees longitude to an upper point located at 44.662 degrees

latitude, and – 114.567 degrees longitude. Mayfield Creek from a lower point located at 44.552 degrees latitude, and – 114.849 degrees longitude to an upper point located at 44.539 degrees latitude, and – 114.797 degrees longitude. McKee Creek from a lower point located at 44.591 degrees latitude, and – 114.609 degrees longitude to an upper point located at 44.578 degrees latitude, and – 114.649 degrees longitude. Nelson Creek from a lower point located at 44.54 degrees latitude, and – 114.803 degrees longitude to an upper point located at 44.499 degrees latitude, and – 114.804 degrees longitude. Parker Creek from a lower point located at 44.623 degrees latitude, and – 114.596 degrees longitude to an upper point located at 44.637 degrees latitude, and – 114.564 degrees longitude. Pioneer Creek from a lower point located at 44.522 degrees latitude, and – 114.864 degrees longitude to an upper point located at 44.441 degrees latitude, and – 114.894 degrees longitude. Rat Creek from a lower point located at 44.588 degrees latitude, and – 114.825 degrees longitude to an upper point located at 44.577 degrees latitude, and – 114.8 degrees longitude. Rock Creek from a lower point located at 44.674 degrees latitude, and – 114.74 degrees longitude to an upper point located at 44.754 degrees latitude, and – 114.67 degrees longitude. Rush Creek from a lower point located at 44.578 degrees latitude, and – 114.613 degrees longitude to an upper point located at 44.555 degrees latitude, and – 114.641 degrees longitude. Shell Creek from a lower point located at 44.613 degrees latitude, and – 114.788 degrees longitude to an upper point located at 44.632 degrees latitude, and – 114.813 degrees longitude. South Fork Cottonwood Creek from a lower point located at 44.621 degrees latitude, and – 114.759 degrees longitude to an upper point located at 44.584 degrees latitude, and – 114.765 degrees longitude. South Fork Warm Spring Creek from a lower point located at 44.578 degrees latitude, and – 114.551 degrees longitude to an upper point located at 44.568 degrees latitude, and – 114.542 degrees longitude. Trail Creek from a lower point located at 44.543 degrees latitude, and – 114.858 degrees longitude to an upper point located at 44.506 degrees latitude, and – 114.959 degrees longitude. Trapper Creek from a lower point located at 44.597 degrees latitude, and – 114.602 degrees longitude to an upper point located at 44.544 degrees latitude, and – 114.6 degrees longitude. Warm Spring Creek from a lower point located at 44.653 degrees latitude, and

– 114.736 degrees longitude to an upper point located at 44.609 degrees latitude, and – 114.481 degrees longitude. West Fork Mayfield Creek from a lower point located at 44.539 degrees latitude, and – 114.797 degrees longitude to an upper point located at 44.465 degrees latitude, and – 114.731 degrees longitude. Wickiup Creek from a lower point located at 44.607 degrees latitude, and – 114.597 degrees longitude to an upper point located at 44.598 degrees latitude, and – 114.658 degrees longitude.

(J) Little Loon Creek from a lower point located at 44.731 degrees latitude, and – 114.94 degrees longitude to an upper point located at 44.615 degrees latitude, and – 114.963 degrees longitude. West Fork Little Loon Creek from a lower point located at 44.71 degrees latitude, and – 114.934 degrees longitude to an upper point located at 44.666 degrees latitude, and – 114.976 degrees longitude.

(K) Little Creek from a lower point located at 44.724 degrees latitude, and – 114.997 degrees longitude to an upper point located at 44.695 degrees latitude, and – 114.98 degrees longitude.

(L) East Fork Thomas Creek from a lower point located at 44.705 degrees latitude, and – 115.027 degrees longitude to an upper point located at 44.668 degrees latitude, and – 115.042 degrees longitude. Thomas Creek from a lower point located at 44.715 degrees latitude, and – 115.011 degrees longitude to an upper point located at 44.705 degrees latitude, and – 115.027 degrees longitude. West Fork Thomas Creek from a lower point located at 44.705 degrees latitude, and – 115.027 degrees longitude to an upper point located at 44.682 degrees latitude, and – 115.054 degrees longitude.

(M) Big Cottonwood Creek from a lower point located at 44.912 degrees latitude, and – 115.082 degrees longitude to an upper point located at 44.879 degrees latitude, and – 115.206 degrees longitude. Buck Creek from a lower point located at 44.896 degrees latitude, and – 115.064 degrees longitude to an upper point located at 44.929 degrees latitude, and – 115.002 degrees longitude. Dynamite Creek from a lower point located at 44.876 degrees latitude, and – 115.057 degrees longitude to an upper point located at 44.871 degrees latitude, and – 115.207 degrees longitude. Little Cottonwood Creek from a lower point located at 44.907 degrees latitude, and – 115.073 degrees longitude to an upper point located at 44.942 degrees latitude, and – 115.019 degrees longitude. Marble Creek from a lower point located at 44.743 degrees latitude, and – 115.016 degrees longitude to an upper point

located at 44.983 degrees latitude, and – 115.079 degrees longitude. Trail Creek from a lower point located at 44.841 degrees latitude, and – 115.008 degrees longitude to an upper point located at 44.952 degrees latitude, and – 114.934 degrees longitude.

(N) Big Chief Creek from a lower point located at 44.838 degrees latitude, and – 115.297 degrees longitude to an upper point located at 44.817 degrees latitude, and – 115.368 degrees longitude. Cultus Creek from a lower point located at 44.813 degrees latitude, and – 115.175 degrees longitude to an upper point located at 44.781 degrees latitude, and – 115.21 degrees longitude. Indian Creek from a lower point located at 44.77 degrees latitude, and – 115.089 degrees longitude to an upper point located at 44.799 degrees latitude, and – 115.389 degrees longitude. Little Indian Creek from a lower point located at 44.842 degrees latitude, and – 115.256 degrees longitude to an upper point located at 44.871 degrees latitude, and – 115.218 degrees longitude. Middle Fork Indian Creek from a lower point located at 44.797 degrees latitude, and – 115.133 degrees longitude to an upper point located at 44.856 degrees latitude, and – 115.103 degrees longitude. Papoose Creek from a lower point located at 44.837 degrees latitude, and – 115.245 degrees longitude to an upper point located at 44.796 degrees latitude, and – 115.277 degrees longitude.

(O) Browning Creek from a lower point located at 44.759 degrees latitude, and – 115.363 degrees longitude to an upper point located at 44.738 degrees latitude, and – 115.406 degrees longitude. Forty-Five Creek from a lower point located at 44.718 degrees latitude, and – 115.232 degrees longitude to an upper point located at 44.665 degrees latitude, and – 115.308 degrees longitude. Little Pistol Creek from a lower point located at 44.721 degrees latitude, and – 115.203 degrees longitude to an upper point located at 44.721 degrees latitude, and – 115.404 degrees longitude. Luger Creek from a lower point located at 44.686 degrees latitude, and – 115.357 degrees longitude to an upper point located at 44.618 degrees latitude, and – 115.395 degrees longitude. Pistol Creek from a lower point located at 44.724 degrees latitude, and – 115.149 degrees longitude to an upper point located at 44.644 degrees latitude, and – 115.442 degrees longitude. Springfield Creek from a lower point located at 44.764 degrees latitude, and – 115.312 degrees longitude to an upper point located at 44.789 degrees latitude, and – 115.297 degrees longitude. Thirty-Eight Creek

from a lower point located at 44.673 degrees latitude, and – 115.395 degrees longitude to an upper point located at 44.713 degrees latitude, and – 115.412 degrees longitude. West Fork Springfield Creek from a lower point located at 44.786 degrees latitude, and – 115.32 degrees longitude to an upper point located at 44.78 degrees latitude, and – 115.383 degrees longitude.

(P) Baldwin Creek from a lower point located at 44.541 degrees latitude, and – 115.067 degrees longitude to an upper point located at 44.5 degrees latitude, and – 115.105 degrees longitude. Duffield Creek from a lower point located at 44.551 degrees latitude, and – 115.007 degrees longitude to an upper point located at 44.571 degrees latitude, and – 114.93 degrees longitude. Float Creek from a lower point located at 44.571 degrees latitude, and – 115.071 degrees longitude to an upper point located at 44.523 degrees latitude, and – 115.178 degrees longitude. North Fork Sheep Creek from a lower point located at 44.649 degrees latitude, and – 115.017 degrees longitude to an upper point located at 44.648 degrees latitude, and – 114.963 degrees longitude. Rapid River from a lower point located at 44.68 degrees latitude, and – 115.152 degrees longitude to an upper point located at 44.551 degrees latitude, and – 115.007 degrees longitude. Seafoam Creek from a lower point located at 44.542 degrees latitude, and – 115.064 degrees longitude to an upper point located at 44.518 degrees latitude, and – 115.118 degrees longitude. Sheep Creek from a lower point located at 44.647 degrees latitude, and – 115.057 degrees longitude to an upper point located at 44.649 degrees latitude, and – 115.017 degrees longitude. South Fork Sheep Creek from a lower point located at 44.649 degrees latitude, and – 115.017 degrees longitude to an upper point located at 44.604 degrees latitude, and – 115.006 degrees longitude. Sulphur Creek from a lower point located at 44.586 degrees latitude, and – 115.072 degrees longitude to an upper point located at 44.562 degrees latitude, and – 115.161 degrees longitude. Vanity Creek from a lower point located at 44.553 degrees latitude, and – 115.061 degrees longitude to an upper point located at 44.481 degrees latitude, and – 115.076 degrees longitude.

(Q) Greyhound Creek from a lower point located at 44.648 degrees latitude, and – 115.167 degrees longitude to an upper point located at 44.588 degrees latitude, and – 115.154 degrees longitude.

(R) Soldier Creek from a lower point located at 44.626 degrees latitude, and – 115.212 degrees longitude to an upper

point located at 44.528 degrees latitude, and – 115.201 degrees longitude.

(S) Elkhorn Creek from a lower point located at 44.615 degrees latitude, and – 115.256 degrees longitude to an upper point located at 44.582 degrees latitude, and – 115.369 degrees longitude. Middle Fork Elkhorn Creek from a lower point located at 44.62 degrees latitude, and – 115.29 degrees longitude to an upper point located at 44.628 degrees latitude, and – 115.368 degrees longitude. North Fork Elkhorn Creek from a lower point located at 44.625 degrees latitude, and – 115.276 degrees longitude to an upper point located at 44.639 degrees latitude, and – 115.362 degrees longitude.

(T) North Fork Sulphur Creek from a lower point located at 44.554 degrees latitude, and – 115.439 degrees longitude to an upper point located at 44.597 degrees latitude, and – 115.465 degrees longitude. Sulphur Creek from a lower point located at 44.555 degrees latitude, and – 115.297 degrees longitude to an upper point located at 44.51 degrees latitude, and – 115.518 degrees longitude.

(U) Dagger Creek from a lower point located at 44.523 degrees latitude, and – 115.281 degrees longitude to an upper point located at 44.457 degrees latitude, and – 115.373 degrees longitude.

(V) Banner Creek from a lower point located at 44.356 degrees latitude, and – 115.208 degrees longitude to an upper point located at 44.291 degrees latitude, and – 115.187 degrees longitude. Bear Creek from a lower point located at 44.439 degrees latitude, and – 115.1 degrees longitude to an upper point located at 44.49 degrees latitude, and – 115.098 degrees longitude. Beaver Creek from a lower point located at 44.406 degrees latitude, and – 115.17 degrees longitude to an upper point located at 44.472 degrees latitude, and – 114.953 degrees longitude. Cape Horn Creek from a lower point located at 44.395 degrees latitude, and – 115.168 degrees longitude to an upper point located at 44.333 degrees latitude, and – 115.287 degrees longitude. Knapp Creek from a lower point located at 44.365 degrees latitude, and – 115.131 degrees longitude to an upper point located at 44.424 degrees latitude, and – 114.915 degrees longitude. Lola Creek from a lower point located at 44.408 degrees latitude, and – 115.174 degrees longitude to an upper point located at 44.391 degrees latitude, and – 115.239 degrees longitude. Marsh Creek from a lower point located at 44.449 degrees latitude, and – 115.23 degrees longitude to an upper point located at 44.329 degrees latitude, and – 115.091 degrees longitude. Winnemucca Creek from a



lower point located at 44.436 degrees latitude, and –115.058 degrees longitude to an upper point located at 44.486 degrees latitude, and –114.962 degrees longitude.

(W) Bear Valley Creek from a lower point located at 44.449 degrees latitude, and –115.23 degrees longitude to an upper point located at 44.236 degrees latitude, and –115.499 degrees longitude. Bearskin Creek from a lower point located at 44.415 degrees latitude, and –115.466 degrees longitude to an upper point located at 44.331 degrees latitude, and –115.528 degrees longitude. Cache Creek from a lower point located at 44.346 degrees latitude, and –115.419 degrees longitude to an upper point located at 44.263 degrees latitude, and –115.402 degrees longitude. Casner Creek from a lower point located at 44.295 degrees latitude, and –115.484 degrees longitude to an upper point located at 44.281 degrees latitude, and –115.451 degrees longitude. Cold Creek from a lower point located at 44.425 degrees latitude, and –115.311 degrees longitude to an upper point located at 44.371 degrees latitude, and –115.317 degrees longitude. Cook Creek from a lower point located at 44.409 degrees latitude, and –115.377 degrees longitude to an upper point located at 44.373 degrees latitude, and –115.444 degrees longitude. Cub Creek from a lower point located at 44.324 degrees latitude, and –115.473 degrees longitude to an upper point located at 44.32 degrees latitude, and –115.517 degrees longitude. East Fork Elk Creek from a lower point located at 44.485 degrees latitude, and –115.452 degrees longitude to an upper point located at 44.481 degrees latitude, and –115.359 degrees longitude. Elk Creek from a lower point located at 44.411 degrees latitude, and –115.372 degrees longitude to an upper point located at 44.485 degrees latitude, and –115.452 degrees longitude. Fir Creek from a lower point located at 44.428 degrees latitude, and –115.29 degrees longitude to an upper point located at 44.344 degrees latitude, and –115.298 degrees longitude. Little Beaver Creek from a lower point located at 44.41 degrees latitude, and –115.491 degrees longitude to an upper point located at 44.445 degrees latitude, and –115.527 degrees longitude. Little East Fork Elk Creek from a lower point located at 44.465 degrees latitude, and –115.445 degrees longitude to an upper point located at 44.48 degrees latitude, and –115.397 degrees longitude. North Fork Elk Creek from a lower point located at 44.485 degrees latitude, and –115.452 degrees longitude to an upper point

located at 44.527 degrees latitude, and –115.458 degrees longitude. Poker Creek from a lower point located at 44.429 degrees latitude, and –115.334 degrees longitude to an upper point located at 44.446 degrees latitude, and –115.366 degrees longitude. Pole Creek from a lower point located at 44.386 degrees latitude, and –115.379 degrees longitude to an upper point located at 44.361 degrees latitude, and –115.366 degrees longitude. Porter Creek from a lower point located at 44.457 degrees latitude, and –115.45 degrees longitude to an upper point located at 44.47 degrees latitude, and –115.54 degrees longitude. Sack Creek from a lower point located at 44.359 degrees latitude, and –115.407 degrees longitude to an upper point located at 44.32 degrees latitude, and –115.351 degrees longitude. Sheep Trail Creek from a lower point located at 44.337 degrees latitude, and –115.447 degrees longitude to an upper point located at 44.36 degrees latitude, and –115.451 degrees longitude. Unnamed creek off Bear Valley Creek from a lower point located at 44.429 degrees latitude, and –115.34 degrees longitude to an upper point located at 44.443 degrees latitude, and –115.358 degrees longitude. Unnamed creek off Cache Creek from a lower point located at 44.315 degrees latitude, and –115.423 degrees longitude to an upper point located at 44.306 degrees latitude, and –115.389 degrees longitude. West Fork Elk Creek from a lower point located at 44.479 degrees latitude, and –115.457 degrees longitude to an upper point located at 44.48 degrees latitude, and –115.52 degrees longitude. Wyoming Creek from a lower point located at 44.426 degrees latitude, and –115.321 degrees longitude to an upper point located at 44.355 degrees latitude, and –115.341 degrees longitude.

(v) Critical Habitat Subunit—Middle Salmon—Panther.

(A) Salmon River from a lower point located at 45.454 degrees latitude, and –114.931 degrees longitude to an upper point located at 44.692 degrees latitude, and –114.049 degrees longitude.

(B) Cayuse Creek from a lower point located at 45.474 degrees latitude, and –114.568 degrees longitude to an upper point located at 45.5 degrees latitude, and –114.602 degrees longitude. Horse Creek from a lower point located at 45.395 degrees latitude, and –114.732 degrees longitude to an upper point located at 45.475 degrees latitude, and –114.401 degrees longitude. Woods Fork Horse Creek from a lower point located at 45.506 degrees latitude, and –114.459 degrees longitude to an upper point located at 45.535 degrees latitude, and –114.442 degrees longitude.

(C) Owl Creek from a lower point located at 45.318 degrees latitude, and –114.447 degrees longitude to an upper point located at 45.474 degrees latitude, and –114.382 degrees longitude.

(D) Arnett Creek from a lower point located at 45.205 degrees latitude, and –114.133 degrees longitude to an upper point located at 45.266 degrees latitude, and –114.2 degrees longitude. Beaver Creek from a lower point located at 45.274 degrees latitude, and –114.334 degrees longitude to an upper point located at 45.272 degrees latitude, and –114.185 degrees longitude. Clear Creek from a lower point located at 45.295 degrees latitude, and –114.351 degrees longitude to an upper point located at 45.146 degrees latitude, and –114.578 degrees longitude. Deep Creek from a lower point located at 45.126 degrees latitude, and –114.215 degrees longitude to an upper point located at 45.018 degrees latitude, and –114.097 degrees longitude. Fourth of July Creek from a lower point located at 44.986 degrees latitude, and –114.346 degrees longitude to an upper point located at 44.996 degrees latitude, and –114.408 degrees longitude. Little Deep Creek from a lower point located at 45.108 degrees latitude, and –114.179 degrees longitude to an upper point located at 45.001 degrees latitude, and –114.162 degrees longitude. Moccasin Creek from a lower point located at 45.153 degrees latitude, and –114.171 degrees longitude to an upper point located at 45.088 degrees latitude, and –114.089 degrees longitude. Musgrove Creek from a lower point located at 45.022 degrees latitude, and –114.313 degrees longitude to an upper point located at 45.097 degrees latitude, and –114.47 degrees longitude. Napias Creek from a lower point located at 45.137 degrees latitude, and –114.217 degrees longitude to an upper point located at 45.244 degrees latitude, and –114.023 degrees longitude. Opal Creek from a lower point located at 44.896 degrees latitude, and –114.314 degrees longitude to an upper point located at 44.901 degrees latitude, and –114.282 degrees longitude. Otter Creek from a lower point located at 44.861 degrees latitude, and –114.29 degrees longitude to an upper point located at 44.869 degrees latitude, and –114.248 degrees longitude. Panther Creek from a lower point located at 45.316 degrees latitude, and –114.405 degrees longitude to an upper point located at 44.829 degrees latitude, and –114.294 degrees longitude. Phelan Creek from a lower point located at 45.167 degrees latitude, and –114.16 degrees longitude to an upper point located at 45.146 degrees latitude, and –114.041 degrees

longitude. Porphyry Creek from a lower point located at 45.004 degrees latitude, and –114.333 degrees longitude to an upper point located at 45.069 degrees latitude, and –114.433 degrees longitude. Rapps Creek from a lower point located at 45.213 degrees latitude, and –114.163 degrees longitude to an upper point located at 45.268 degrees latitude, and –114.171 degrees longitude. South Fork Porphyry Creek from a lower point located at 45.033 degrees latitude, and –114.387 degrees longitude to an upper point located at 45.038 degrees latitude, and –114.427 degrees longitude. Trail Creek from a lower point located at 45.25 degrees latitude, and –114.319 degrees longitude to an upper point located at 45.215 degrees latitude, and –114.233 degrees longitude. Unnamed creek off Deep Creek from a lower point located at 45.064 degrees latitude, and –114.121 degrees longitude to an upper point located at 45.08 degrees latitude, and –114.091 degrees longitude. Weasel Creek from a lower point located at 44.887 degrees latitude, and –114.305 degrees longitude to an upper point located at 44.888 degrees latitude, and –114.272 degrees longitude. West Fork Blackbird Creek from a lower point located at 45.093 degrees latitude, and –114.3 degrees longitude to an upper point located at 45.11 degrees latitude, and –114.399 degrees longitude. Woodtick Creek from a lower point located at 45.046 degrees latitude, and –114.282 degrees longitude to an upper point located at 44.973 degrees latitude, and –114.191 degrees longitude.

(E) Pine Creek from a lower point located at 45.364 degrees latitude, and –114.3 degrees longitude to an upper point located at 45.282 degrees latitude, and –114.167 degrees longitude.

(F) Boulder Creek from a lower point located at 45.376 degrees latitude, and –114.276 degrees longitude to an upper point located at 45.46 degrees latitude, and –114.348 degrees longitude.

(G) Spring Creek from a lower point located at 45.391 degrees latitude, and –114.255 degrees longitude to an upper point located at 45.449 degrees latitude, and –114.337 degrees longitude.

(H) Squaw Creek from a lower point located at 45.399 degrees latitude, and –114.168 degrees longitude to an upper point located at 45.504 degrees latitude, and –114.257 degrees longitude.

(I) Corral Creek from a lower point located at 45.498 degrees latitude, and –114.146 degrees longitude to an upper point located at 45.545 degrees latitude, and –114.111 degrees longitude. Indian Creek from a lower point located at 45.4 degrees latitude, and –114.167 degrees longitude to an upper point located at

45.552 degrees latitude, and –114.144 degrees longitude. McConn Creek from a lower point located at 45.504 degrees latitude, and –114.152 degrees longitude to an upper point located at 45.527 degrees latitude, and –114.242 degrees longitude. West Fork Indian Creek from a lower point located at 45.475 degrees latitude, and –114.138 degrees longitude to an upper point located at 45.489 degrees latitude, and –114.198 degrees longitude.

(J) Dahlonga Creek from a lower point located at 45.541 degrees latitude, and –113.929 degrees longitude to an upper point located at 45.524 degrees latitude, and –113.836 degrees longitude. Hughes Creek from a lower point located at 45.476 degrees latitude, and –113.988 degrees longitude to an upper point located at 45.582 degrees latitude, and –114.12 degrees longitude. Moose Creek from a lower point located at 45.654 degrees latitude, and –113.97 degrees longitude to an upper point located at 45.691 degrees latitude, and –113.944 degrees longitude. North Fork Salmon River from a lower point located at 45.405 degrees latitude, and –113.994 degrees longitude to an upper point located at 45.702 degrees latitude, and –113.989 degrees longitude. North Fork Sheep Creek from a lower point located at 45.482 degrees latitude, and –113.836 degrees longitude to an upper point located at 45.483 degrees latitude, and –113.774 degrees longitude. Pierce Creek from a lower point located at 45.621 degrees latitude, and –113.963 degrees longitude to an upper point located at 45.67 degrees latitude, and –113.932 degrees longitude. Sheep Creek from a lower point located at 45.504 degrees latitude, and –113.953 degrees longitude to an upper point located at 45.482 degrees latitude, and –113.836 degrees longitude. South Fork Sheep Creek from a lower point located at 45.482 degrees latitude, and –113.836 degrees longitude to an upper point located at 45.449 degrees latitude, and –113.8 degrees longitude. Twin Creek from a lower point located at 45.608 degrees latitude, and –113.964 degrees longitude to an upper point located at 45.591 degrees latitude, and –114.081 degrees longitude. Vine Creek from a lower point located at 45.611 degrees latitude, and –113.966 degrees longitude to an upper point located at 45.638 degrees latitude, and –114 degrees longitude. West Fork North Fork Salmon River from a lower point located at 45.654 degrees latitude, and –113.97 degrees longitude to an upper point located at 45.667 degrees latitude, and –114.002 degrees longitude.

(K) Fourth of July Creek from a lower point located at 45.364 degrees latitude, and –113.943 degrees longitude to an upper point located at 45.427 degrees latitude, and –113.773 degrees longitude.

(L) Carmen Creek from a lower point located at 45.25 degrees latitude, and –113.899 degrees longitude to an upper point located at 45.39 degrees latitude, and –113.737 degrees longitude. Freeman Creek from a lower point located at 45.279 degrees latitude, and –113.815 degrees longitude to an upper point located at 45.276 degrees latitude, and –113.686 degrees longitude.

(M) South Fork Williams Creek from a lower point located at 45.077 degrees latitude, and –114.013 degrees longitude to an upper point located at 45.038 degrees latitude, and –114.086 degrees longitude. Williams Creek from a lower point located at 45.081 degrees latitude, and –113.899 degrees longitude to an upper point located at 45.077 degrees latitude, and –114.013 degrees longitude.

(N) Twelvemile Creek from a lower point located at 45.011 degrees latitude, and –113.932 degrees longitude to an upper point located at 44.929 degrees latitude, and –113.851 degrees longitude.

(O) Iron Creek from a lower point located at 44.887 degrees latitude, and –113.968 degrees longitude to an upper point located at 44.908 degrees latitude, and –114.192 degrees longitude. North Fork Iron Creek from a lower point located at 44.921 degrees latitude, and –114.109 degrees longitude to an upper point located at 45.007 degrees latitude, and –114.096 degrees longitude. South Fork Iron Creek from a lower point located at 44.92 degrees latitude, and –114.113 degrees longitude to an upper point located at 44.906 degrees latitude, and –114.158 degrees longitude. West Fork Iron Creek from a lower point located at 44.921 degrees latitude, and –114.124 degrees longitude to an upper point located at 44.961 degrees latitude, and –114.186 degrees longitude.

(P) McKim Creek from a lower point located at 44.81 degrees latitude, and –114.009 degrees longitude to an upper point located at 44.816 degrees latitude, and –113.901 degrees longitude. North Fork McKim Creek from a lower point located at 44.81 degrees latitude, and –113.965 degrees longitude to an upper point located at 44.821 degrees latitude, and –113.871 degrees longitude.

(Q) Big Hat Creek from a lower point located at 44.821 degrees latitude, and –114.091 degrees longitude to an upper point located at 44.819 degrees latitude, and –114.166 degrees longitude. Hat Creek from a lower point located at

44.795 degrees latitude, and – 114.001 degrees longitude to an upper point located at 44.869 degrees latitude, and – 114.132 degrees longitude. Middle Fork Hat Creek from a lower point located at 44.869 degrees latitude, and – 114.132 degrees longitude to an upper point located at 44.882 degrees latitude, and – 114.201 degrees longitude. North Fork Hat Creek from a lower point located at 44.869 degrees latitude, and – 114.132 degrees longitude to an upper point located at 44.894 degrees latitude, and – 114.199 degrees longitude.

(R) Allison Creek from a lower point located at 44.771 degrees latitude, and – 113.997 degrees longitude to an upper point located at 44.782 degrees latitude, and – 113.879 degrees longitude.

(S) Cow Creek from a lower point located at 44.736 degrees latitude, and – 114.003 degrees longitude to an upper point located at 44.738 degrees latitude, and – 113.853 degrees longitude.

(vi) Critical Habitat Subunit—Lemhi River.

(A) Lemhi River from a lower point located at 45.188 degrees latitude, and – 113.889 degrees longitude to an upper point located at 44.682 degrees latitude, and – 113.355 degrees longitude.

(B) Geertson Creek from a lower point located at 45.132 degrees latitude, and – 113.769 degrees longitude to an upper point located at 45.239 degrees latitude, and – 113.665 degrees longitude.

(C) Bohannon Creek from a lower point located at 45.112 degrees latitude, and – 113.746 degrees longitude to an upper point located at 45.229 degrees latitude, and – 113.667 degrees longitude.

(D) East Fork Kenney Creek from a lower point located at 45.066 degrees latitude, and – 113.573 degrees longitude to an upper point located at 45.075 degrees latitude, and – 113.495 degrees longitude. Kenney Creek from a lower point located at 45.032 degrees latitude, and – 113.662 degrees longitude to an upper point located at 45.11 degrees latitude, and – 113.513 degrees longitude.

(E) Pattee Creek from a lower point located at 44.98 degrees latitude, and – 113.643 degrees longitude to an upper point located at 45.046 degrees latitude, and – 113.477 degrees longitude.

(F) Bear Valley Creek from a lower point located at 44.772 degrees latitude, and – 113.707 degrees longitude to an upper point located at 44.804 degrees latitude, and – 113.866 degrees longitude. Bray Creek from a lower point located at 44.706 degrees latitude, and – 113.768 degrees longitude to an upper point located at 44.675 degrees latitude, and – 113.813 degrees longitude. Cooper Creek from a lower

point located at 44.726 degrees latitude, and – 113.725 degrees longitude to an upper point located at 44.675 degrees latitude, and – 113.702 degrees longitude. Deer Creek from a lower point located at 44.793 degrees latitude, and – 113.777 degrees longitude to an upper point located at 44.776 degrees latitude, and – 113.809 degrees longitude. East Fork Hayden Creek from a lower point located at 44.76 degrees latitude, and – 113.711 degrees longitude to an upper point located at 44.664 degrees latitude, and – 113.683 degrees longitude. Hayden Creek from a lower point located at 44.869 degrees latitude, and – 113.626 degrees longitude to an upper point located at 44.722 degrees latitude, and – 113.819 degrees longitude. Kadletz Creek from a lower point located at 44.775 degrees latitude, and – 113.742 degrees longitude to an upper point located at 44.74 degrees latitude, and – 113.819 degrees longitude. Short Creek from a lower point located at 44.788 degrees latitude, and – 113.767 degrees longitude to an upper point located at 44.773 degrees latitude, and – 113.796 degrees longitude. West Fork Hayden Creek from a lower point located at 44.705 degrees latitude, and – 113.756 degrees longitude to an upper point located at 44.706 degrees latitude, and – 113.768 degrees longitude. Wright Creek from a lower point located at 44.784 degrees latitude, and – 113.754 degrees longitude to an upper point located at 44.746 degrees latitude, and – 113.836 degrees longitude.

(G) Mill Creek from a lower point located at 44.767 degrees latitude, and – 113.518 degrees longitude to an upper point located at 44.656 degrees latitude, and – 113.656 degrees longitude.

(H) Big Springs Creek from a lower point located at 44.689 degrees latitude, and – 113.369 degrees longitude to an upper point located at 44.758 degrees latitude, and – 113.5 degrees longitude.

(I) Little Eightmile Creek from a lower point located at 44.739 degrees latitude, and – 113.459 degrees longitude to an upper point located at 44.823 degrees latitude, and – 113.365 degrees longitude.

(J) Big Eightmile Creek from a lower point located at 44.739 degrees latitude, and – 113.459 degrees longitude to an upper point located at 44.561 degrees latitude, and – 113.562 degrees longitude. Dairy Creek from a lower point located at 44.637 degrees latitude, and – 113.552 degrees longitude to an upper point located at 44.62 degrees latitude, and – 113.593 degrees longitude.

(K) Big Timber Creek from a lower point located at 44.7 degrees latitude,

and – 113.374 degrees longitude to an upper point located at 44.509 degrees latitude, and – 113.538 degrees longitude. Little Timber Creek from a lower point located at 44.642 degrees latitude, and – 113.383 degrees longitude to an upper point located at 44.606 degrees latitude, and – 113.444 degrees longitude. Middle Fork Little Timber Creek from a lower point located at 44.606 degrees latitude, and – 113.444 degrees longitude to an upper point located at 44.551 degrees latitude, and – 113.53 degrees longitude.

(L) Canyon Creek from a lower point located at 44.692 degrees latitude, and – 113.366 degrees longitude to an upper point located at 44.799 degrees latitude, and – 113.29 degrees longitude. Cruikshank Creek from a lower point located at 44.759 degrees latitude, and – 113.259 degrees longitude to an upper point located at 44.771 degrees latitude, and – 113.134 degrees longitude. Hood Gulch Springs 1 from a lower point located at 44.769 degrees latitude, and – 113.251 degrees longitude to an upper point located at 44.781 degrees latitude, and – 113.336 degrees longitude. Hood Gulch Springs 2 from a lower point located at 44.78 degrees latitude, and – 113.279 degrees longitude to an upper point located at 44.752 degrees latitude, and – 113.317 degrees longitude. Hood Gulch Springs 3 from a lower point located at 44.777 degrees latitude, and – 113.282 degrees longitude to an upper point located at 44.777 degrees latitude, and – 113.323 degrees longitude. Hood Gulch Springs 4 from a lower point located at 44.768 degrees latitude, and – 113.296 degrees longitude to an upper point located at 44.764 degrees latitude, and – 113.325 degrees longitude.

(M) Big Bear Creek from a lower point located at 44.677 degrees latitude, and – 113.159 degrees longitude to an upper point located at 44.642 degrees latitude, and – 113.065 degrees longitude. Deer Creek from a lower point located at 44.52 degrees latitude, and – 113.286 degrees longitude to an upper point located at 44.452 degrees latitude, and – 113.342 degrees longitude. Eighteenmile Creek from a lower point located at 44.682 degrees latitude, and – 113.355 degrees longitude to an upper point located at 44.447 degrees latitude, and – 113.008 degrees longitude. Hawley Creek from a lower point located at 44.667 degrees latitude, and – 113.323 degrees longitude to an upper point located at 44.677 degrees latitude, and – 113.159 degrees longitude. Meadow Creek from a lower point located at 44.663 degrees latitude, and – 113.104 degrees longitude to an upper point located at 44.678 degrees latitude, and – 113.079 degrees longitude.

Reservoir Creek from a lower point located at 44.677 degrees latitude, and – 113.159 degrees longitude to an upper point located at 44.745 degrees latitude, and – 113.126 degrees longitude.

(vii) Critical Habitat Subunit—Opal Lake.

(A) Opal Creek from a lower point located at 44.898 degrees latitude, and – 114.277 degrees longitude to an upper point located at 44.876 degrees latitude, and – 114.251 degrees longitude. Opal Lake centered at 44.899 degrees latitude, and – 114.281 degrees longitude.

(B) [Reserved]

(viii) Critical Habitat Subunit—Lake Creek.

(A) Lake Creek from a lower point located at 45.017 degrees latitude, and – 113.988 degrees longitude to an upper point located at 44.986 degrees latitude, and – 114.08 degrees longitude. North Fork Lake Creek from a lower point located at 45.009 degrees latitude, and – 114.016 degrees longitude to an upper point located at 45.015 degrees latitude, and – 114.068 degrees longitude. Williams Lake centered at 45.016 degrees latitude, and – 113.975 degrees longitude.

(B) [Reserved]

(ix) Critical Habitat Subunit—Pahsimeroi River.

(A) Pahsimeroi River from a lower point located at 44.692 degrees latitude, and – 114.049 degrees longitude to an upper point located at 44.157 degrees latitude, and – 113.703 degrees longitude.

(B) East Fork Morgan Creek from a lower point located at 44.675 degrees latitude, and – 113.899 degrees longitude to an upper point located at 44.67 degrees latitude, and – 113.828 degrees longitude. Morgan Creek from a lower point located at 44.618 degrees latitude, and – 113.963 degrees longitude to an upper point located at 44.675 degrees latitude, and – 113.899 degrees longitude. North Fork Morgan Creek from a lower point located at 44.675 degrees latitude, and – 113.899 degrees longitude to an upper point located at 44.71 degrees latitude, and – 113.829 degrees longitude.

(C) Tater Creek from a lower point located at 44.633 degrees latitude, and – 113.902 degrees longitude to an upper point located at 44.661 degrees latitude, and – 113.839 degrees longitude.

(D) Morse Creek from a lower point located at 44.569 degrees latitude, and – 113.885 degrees longitude to an upper point located at 44.654 degrees latitude, and – 113.709 degrees longitude.

(E) Falls Creek from a lower point located at 44.566 degrees latitude, and – 113.878 degrees longitude to an upper

point located at 44.611 degrees latitude, and – 113.684 degrees longitude.

(F) Inyo Creek from a lower point located at 44.535 degrees latitude, and – 113.683 degrees longitude to an upper point located at 44.532 degrees latitude, and – 113.627 degrees longitude. Patterson Creek from a lower point located at 44.614 degrees latitude, and – 113.966 degrees longitude to an upper point located at 44.636 degrees latitude, and – 113.653 degrees longitude.

(G) Big Creek from a lower point located at 44.442 degrees latitude, and – 113.6 degrees longitude to an upper point located at 44.495 degrees latitude, and – 113.818 degrees longitude. North Fork Big Creek from a lower point located at 44.442 degrees latitude, and – 113.6 degrees longitude to an upper point located at 44.552 degrees latitude, and – 113.593 degrees longitude. South Fork Big Creek from a lower point located at 44.442 degrees latitude, and – 113.6 degrees longitude to an upper point located at 44.385 degrees latitude, and – 113.476 degrees longitude.

(H) Big Gulch from a lower point located at 44.354 degrees latitude, and – 113.58 degrees longitude to an upper point located at 44.374 degrees latitude, and – 113.483 degrees longitude. Ditch Creek from a lower point located at 44.354 degrees latitude, and – 113.58 degrees longitude to an upper point located at 44.4 degrees latitude, and – 113.558 degrees longitude. Goldberg Creek from a lower point located at 44.485 degrees latitude, and – 113.815 degrees longitude to an upper point located at 44.354 degrees latitude, and – 113.58 degrees longitude.

(I) Burnt Creek from a lower point located at 44.284 degrees latitude, and – 113.652 degrees longitude to an upper point located at 44.149 degrees latitude, and – 113.632 degrees longitude. East Fork Burnt Creek from a lower point located at 44.149 degrees latitude, and – 113.632 degrees longitude to an upper point located at 44.12 degrees latitude, and – 113.624 degrees longitude.

(J) Mahogany Creek from a lower point located at 44.208 degrees latitude, and – 113.701 degrees longitude to an upper point located at 44.159 degrees latitude, and – 113.767 degrees longitude.

(K) West Fork Pahsimeroi River from a lower point located at 44.157 degrees latitude, and – 113.703 degrees longitude to an upper point located at 44.092 degrees latitude, and – 113.749 degrees longitude.

(L) East Fork Pahsimeroi River from a lower point located at 44.157 degrees latitude, and – 113.703 degrees longitude to an upper point located at

44.081 degrees latitude, and – 113.72 degrees longitude.

(x) Critical Habitat Subunit—Upper Salmon River.

(A) Salmon River from a lower point located at 44.692 degrees latitude, and – 114.049 degrees longitude to an upper point located at 43.797 degrees latitude, and – 114.774 degrees longitude.

(B) Alder Creek from a lower point located at 44.803 degrees latitude, and – 114.256 degrees longitude to an upper point located at 44.805 degrees latitude, and – 114.308 degrees longitude. Corral Creek from a lower point located at 44.779 degrees latitude, and – 114.248 degrees longitude to an upper point located at 44.876 degrees latitude, and – 114.219 degrees longitude. Lick Creek from a lower point located at 44.722 degrees latitude, and – 114.271 degrees longitude to an upper point located at 44.775 degrees latitude, and – 114.347 degrees longitude. Morgan Creek from a lower point located at 44.612 degrees latitude, and – 114.168 degrees longitude to an upper point located at 44.846 degrees latitude, and – 114.261 degrees longitude. Unnamed creek off Corral Creek from a lower point located at 44.805 degrees latitude, and – 114.224 degrees longitude to an upper point located at 44.84 degrees latitude, and – 114.198 degrees longitude. Van Horn Creek from a lower point located at 44.757 degrees latitude, and – 114.256 degrees longitude to an upper point located at 44.786 degrees latitude, and – 114.337 degrees longitude. West Fork Morgan Creek from a lower point located at 44.681 degrees latitude, and – 114.243 degrees longitude to an upper point located at 44.734 degrees latitude, and – 114.393 degrees longitude.

(C) Bear Creek from a lower point located at 44.569 degrees latitude, and – 114.361 degrees longitude to an upper point located at 44.597 degrees latitude, and – 114.462 degrees longitude. Challis Creek from a lower point located at 44.57 degrees latitude, and – 114.186 degrees longitude to an upper point located at 44.552 degrees latitude, and – 114.511 degrees longitude. Lodgepole Creek from a lower point located at 44.54 degrees latitude, and – 114.408 degrees longitude to an upper point located at 44.555 degrees latitude, and – 114.474 degrees longitude. Mill Creek from a lower point located at 44.561 degrees latitude, and – 114.274 degrees longitude to an upper point located at 44.47 degrees latitude, and – 114.492 degrees longitude.

(D) Garden Creek from a lower point located at 44.509 degrees latitude, and – 114.191 degrees longitude to an upper point located at 44.431 degrees latitude, and – 114.427 degrees longitude.

(E) Big Boulder Creek from a lower point located at 44.118 degrees latitude, and – 114.428 degrees longitude to an upper point located at 44.097 degrees latitude, and – 114.612 degrees longitude. Bowery Creek from a lower point located at 44.032 degrees latitude, and – 114.46 degrees longitude to an upper point located at 44.012 degrees latitude, and – 114.389 degrees longitude. Chamberlain Creek from a lower point located at 44.004 degrees latitude, and – 114.53 degrees longitude to an upper point located at 44.037 degrees latitude, and – 114.609 degrees longitude. East Fork Herd Creek from a lower point located at 44.058 degrees latitude, and – 114.233 degrees longitude to an upper point located at 43.984 degrees latitude, and – 114.203 degrees longitude. East Fork Salmon River from a lower point located at 44.268 degrees latitude, and – 114.326 degrees longitude to an upper point located at 43.929 degrees latitude, and – 114.554 degrees longitude. East Pass Creek from a lower point located at 44.076 degrees latitude, and – 114.244 degrees longitude to an upper point located at 44.05 degrees latitude, and – 114.276 degrees longitude. Germania Creek from a lower point located at 44.039 degrees latitude, and – 114.461 degrees longitude to an upper point located at 43.968 degrees latitude, and – 114.703 degrees longitude. Herd Creek from a lower point located at 44.154 degrees latitude, and – 114.3 degrees longitude to an upper point located at 44.058 degrees latitude, and – 114.233 degrees longitude. Ibex Creek from a lower point located at 43.953 degrees latitude, and – 114.525 degrees longitude to an upper point located at 43.908 degrees latitude, and – 114.492 degrees longitude. Little Boulder Creek from a lower point located at 44.099 degrees latitude, and – 114.442 degrees longitude to an upper point located at 44.065 degrees latitude, and – 114.542 degrees longitude. Long Tom Creek from a lower point located at 44.027 degrees latitude, and – 114.429 degrees longitude to an upper point located at 43.978 degrees latitude, and – 114.401 degrees longitude. Meridian Creek from a lower point located at 44.011 degrees latitude, and – 114.251 degrees longitude to an upper point located at 43.988 degrees latitude, and – 114.256 degrees longitude. North Fork Bowery Creek from a lower point located at 44.032 degrees latitude, and – 114.4 degrees longitude to an upper point located at 44.049 degrees latitude, and – 114.365 degrees longitude. Roaring Creek from a lower point located at 43.978 degrees latitude, and – 114.473

degrees longitude to an upper point located at 43.939 degrees latitude, and – 114.485 degrees longitude. South Fork East Fork Salmon River from a lower point located at 43.929 degrees latitude, and – 114.554 degrees longitude to an upper point located at 43.848 degrees latitude, and – 114.566 degrees longitude. West Fork East Fork Salmon River from a lower point located at 43.929 degrees latitude, and – 114.554 degrees longitude to an upper point located at 43.919 degrees latitude, and – 114.655 degrees longitude. West Fork Herd Creek from a lower point located at 44.058 degrees latitude, and – 114.233 degrees longitude to an upper point located at 43.99 degrees latitude, and – 114.224 degrees longitude. West Pass Creek from a lower point located at 43.988 degrees latitude, and – 114.49 degrees longitude to an upper point located at 43.893 degrees latitude, and – 114.418 degrees longitude. Wickiup Creek from a lower point located at 44.072 degrees latitude, and – 114.458 degrees longitude to an upper point located at 44.033 degrees latitude, and – 114.565 degrees longitude.

(F) Kinnikinic Creek from a lower point located at 44.258 degrees latitude, and – 114.401 degrees longitude to an upper point located at 44.367 degrees latitude, and – 114.396 degrees longitude.

(G) Martin Creek from a lower point located at 44.387 degrees latitude, and – 114.494 degrees longitude to an upper point located at 44.426 degrees latitude, and – 114.563 degrees longitude. Squaw Creek from a lower point located at 44.249 degrees latitude, and – 114.454 degrees longitude to an upper point located at 44.456 degrees latitude, and – 114.503 degrees longitude. Willow Creek from a lower point located at 44.428 degrees latitude, and – 114.489 degrees longitude to an upper point located at 44.447 degrees latitude, and – 114.445 degrees longitude.

(H) Thompson Creek from a lower point located at 44.25 degrees latitude, and – 114.516 degrees longitude to an upper point located at 44.378 degrees latitude, and – 114.596 degrees longitude.

(I) Livingston Creek from a lower point located at 44.194 degrees latitude, and – 114.603 degrees longitude to an upper point located at 44.144 degrees latitude, and – 114.608 degrees longitude. Silver Rule Creek from a lower point located at 44.207 degrees latitude, and – 114.597 degrees longitude to an upper point located at 44.146 degrees latitude, and – 114.581 degrees longitude. Slate Creek from a lower point located at 44.256 degrees latitude, and – 114.563 degrees

longitude to an upper point located at 44.155 degrees latitude, and – 114.629 degrees longitude.

(J) Martin Creek from a lower point located at 44.137 degrees latitude, and – 114.724 degrees longitude to an upper point located at 44.117 degrees latitude, and – 114.797 degrees longitude. Pigtail Creek from a lower point located at 44.129 degrees latitude, and – 114.726 degrees longitude to an upper point located at 44.122 degrees latitude, and – 114.735 degrees longitude. Warm Springs Creek from a lower point located at 44.254 degrees latitude, and – 114.675 degrees longitude to an upper point located at 44.059 degrees latitude, and – 114.613 degrees longitude.

(K) Cabin Creek from a lower point located at 44.397 degrees latitude, and – 114.827 degrees longitude to an upper point located at 44.419 degrees latitude, and – 114.901 degrees longitude. Deadwood Creek from a lower point located at 44.376 degrees latitude, and – 114.776 degrees longitude to an upper point located at 44.349 degrees latitude, and – 114.835 degrees longitude. Eightmile Creek from a lower point located at 44.426 degrees latitude, and – 114.619 degrees longitude to an upper point located at 44.471 degrees latitude, and – 114.715 degrees longitude. Elevenmile Creek from a lower point located at 44.467 degrees latitude, and – 114.579 degrees longitude to an upper point located at 44.436 degrees latitude, and – 114.544 degrees longitude. Elevenmile Creek from a lower point located at 44.405 degrees latitude, and – 114.654 degrees longitude to an upper point located at 44.355 degrees latitude, and – 114.615 degrees longitude. Jordan Creek from a lower point located at 44.379 degrees latitude, and – 114.72 degrees longitude to an upper point located at 44.469 degrees latitude, and – 114.77 degrees longitude. Lightning Creek from a lower point located at 44.388 degrees latitude, and – 114.795 degrees longitude to an upper point located at 44.466 degrees latitude, and – 114.787 degrees longitude. McKay Creek from a lower point located at 44.489 degrees latitude, and – 114.55 degrees longitude to an upper point located at 44.475 degrees latitude, and – 114.491 degrees longitude. Ninemile Creek from a lower point located at 44.445 degrees latitude, and – 114.604 degrees longitude to an upper point located at 44.414 degrees latitude, and – 114.582 degrees longitude. Sixmile Creek from a lower point located at 44.413 degrees latitude, and – 114.637 degrees longitude to an upper point located at 44.385 degrees latitude, and – 114.595 degrees longitude. Tenmile Creek from a lower point located at

44.465 degrees latitude, and – 114.581 degrees longitude to an upper point located at 44.484 degrees latitude, and – 114.646 degrees longitude.

Twelvemile Creek from a lower point located at 44.478 degrees latitude, and – 114.564 degrees longitude to an upper point located at 44.497 degrees latitude, and – 114.614 degrees longitude.

Unnamed creek off McKay Creek from a lower point located at 44.477 degrees latitude, and – 114.525 degrees longitude to an upper point located at 44.445 degrees latitude, and – 114.525 degrees longitude. West Fork Yankee Fork from a lower point located at 44.351 degrees latitude, and – 114.727 degrees longitude to an upper point located at 44.388 degrees latitude, and – 114.932 degrees longitude. Yankee Fork from a lower point located at 44.27 degrees latitude, and – 114.734 degrees longitude to an upper point located at 44.51 degrees latitude, and – 114.588 degrees longitude.

(L) Basin Creek from a lower point located at 44.264 degrees latitude, and – 114.817 degrees longitude to an upper point located at 44.368 degrees latitude, and – 114.942 degrees longitude. East Basin Creek from a lower point located at 44.277 degrees latitude, and – 114.849 degrees longitude to an upper point located at 44.343 degrees latitude, and – 114.79 degrees longitude. Short Creek from a lower point located at 44.291 degrees latitude, and – 114.871 degrees longitude to an upper point located at 44.313 degrees latitude, and – 114.855 degrees longitude. Sunday Creek from a lower point located at 44.349 degrees latitude, and – 114.905 degrees longitude to an upper point located at 44.341 degrees latitude, and – 114.969 degrees longitude. Unnamed creek off East Basin Creek from a lower point located at 44.32 degrees latitude, and – 114.817 degrees longitude to an upper point located at 44.344 degrees latitude, and – 114.823 degrees longitude.

(M) Crooked Creek from a lower point located at 44.237 degrees latitude, and – 114.994 degrees longitude to an upper point located at 44.203 degrees latitude, and – 115.044 degrees longitude. East Fork Valley Creek from a lower point located at 44.358 degrees latitude, and – 115.048 degrees longitude to an upper point located at 44.327 degrees latitude, and – 114.987 degrees longitude. Elk

Creek from a lower point located at 44.293 degrees latitude, and – 115.023 degrees longitude to an upper point located at 44.196 degrees latitude, and – 115.133 degrees longitude. Goat Creek from a lower point located at 44.219 degrees latitude, and – 114.942 degrees longitude to an upper point located at 44.179 degrees latitude, and – 115.008 degrees longitude. Iron Creek from a lower point located at 44.223 degrees latitude, and – 114.947 degrees longitude to an upper point located at 44.189 degrees latitude, and – 115.047 degrees longitude. Job Creek from a lower point located at 44.243 degrees latitude, and – 115.001 degrees longitude to an upper point located at 44.243 degrees latitude, and – 115.003 degrees longitude. Meadow Creek from a lower point located at 44.306 degrees latitude, and – 115.052 degrees longitude to an upper point located at 44.316 degrees latitude, and – 115.088 degrees longitude. Prospect Creek from a lower point located at 44.394 degrees latitude, and – 114.985 degrees longitude to an upper point located at 44.357 degrees latitude, and – 114.984 degrees longitude. Trap Creek from a lower point located at 44.316 degrees latitude, and – 115.088 degrees longitude to an upper point located at 44.29 degrees latitude, and – 115.162 degrees longitude. Valley Creek from a lower point located at 44.225 degrees latitude, and – 114.927 degrees longitude to an upper point located at 44.377 degrees latitude, and – 114.96 degrees longitude.

(N) Fishhook Creek from a lower point located at 44.143 degrees latitude, and – 114.92 degrees longitude to an upper point located at 44.133 degrees latitude, and – 114.981 degrees longitude. Little Redfish Lake centered at 44.161 degrees latitude, and – 114.908 degrees longitude. Redfish Lake centered at 44.117 degrees latitude, and – 114.931 degrees longitude. Redfish Lake Creek from a lower point located at 44.169 degrees latitude, and – 114.898 degrees longitude to an upper point located at 44.1 degrees latitude, and – 114.955 degrees longitude.

(O) Fourth of July Creek from a lower point located at 44.032 degrees latitude, and – 114.836 degrees longitude to an upper point located at 44.044 degrees latitude, and – 114.62 degrees longitude.

(P) Alpine Creek from a lower point located at 43.896 degrees latitude, and – 114.907 degrees longitude to an upper point located at 43.93 degrees latitude, and – 114.969 degrees longitude. Alturas Lake centered at 43.914 degrees latitude, and – 114.86 degrees longitude. Alturas Lake Creek from a lower point located at 44.004 degrees latitude, and – 114.836 degrees longitude to an upper point located at 43.859 degrees latitude, and – 114.983 degrees longitude. Cabin Creek from a lower point located at 43.928 degrees latitude, and – 114.842 degrees longitude to an upper point located at 43.929 degrees latitude, and – 114.879 degrees longitude. Petit Lake centered at 43.98 degrees latitude, and – 114.878 degrees longitude. Pettit Lake Creek from a lower point located at 43.988 degrees latitude, and – 114.84 degrees longitude to an upper point located at 43.961 degrees latitude, and – 114.916 degrees longitude. Pole Creek from a lower point located at 43.926 degrees latitude, and – 114.809 degrees longitude to an upper point located at 43.964 degrees latitude, and – 114.69 degrees longitude. Yellowbelly Creek from a lower point located at 43.992 degrees latitude, and – 114.838 degrees longitude to an upper point located at 43.981 degrees latitude, and – 114.927 degrees longitude. Yellowbelly Lake centered at 44.001 degrees latitude, and – 114.875 degrees longitude.

(Q) Beaver Creek from a lower point located at 43.925 degrees latitude, and – 114.809 degrees longitude to an upper point located at 43.836 degrees latitude, and – 114.906 degrees longitude.

(R) Smiley Creek from a lower point located at 43.915 degrees latitude, and – 114.8 degrees longitude to an upper point located at 43.792 degrees latitude, and – 114.824 degrees longitude.

(S) Frenchman Creek from a lower point located at 43.885 degrees latitude, and – 114.77 degrees longitude to an upper point located at 43.804 degrees latitude, and – 114.816 degrees longitude.

**Note:** Maps follow for Unit 16, Subunit i; Subunit ii; Subunit iii; Subunit iv (North and East Portion); Subunit iv (South and West Portion); Subunit v; Subunit vi; Subunits vii and viii; Subunit ix; Subunit x (North Portion); and Subunit x (South Portion).

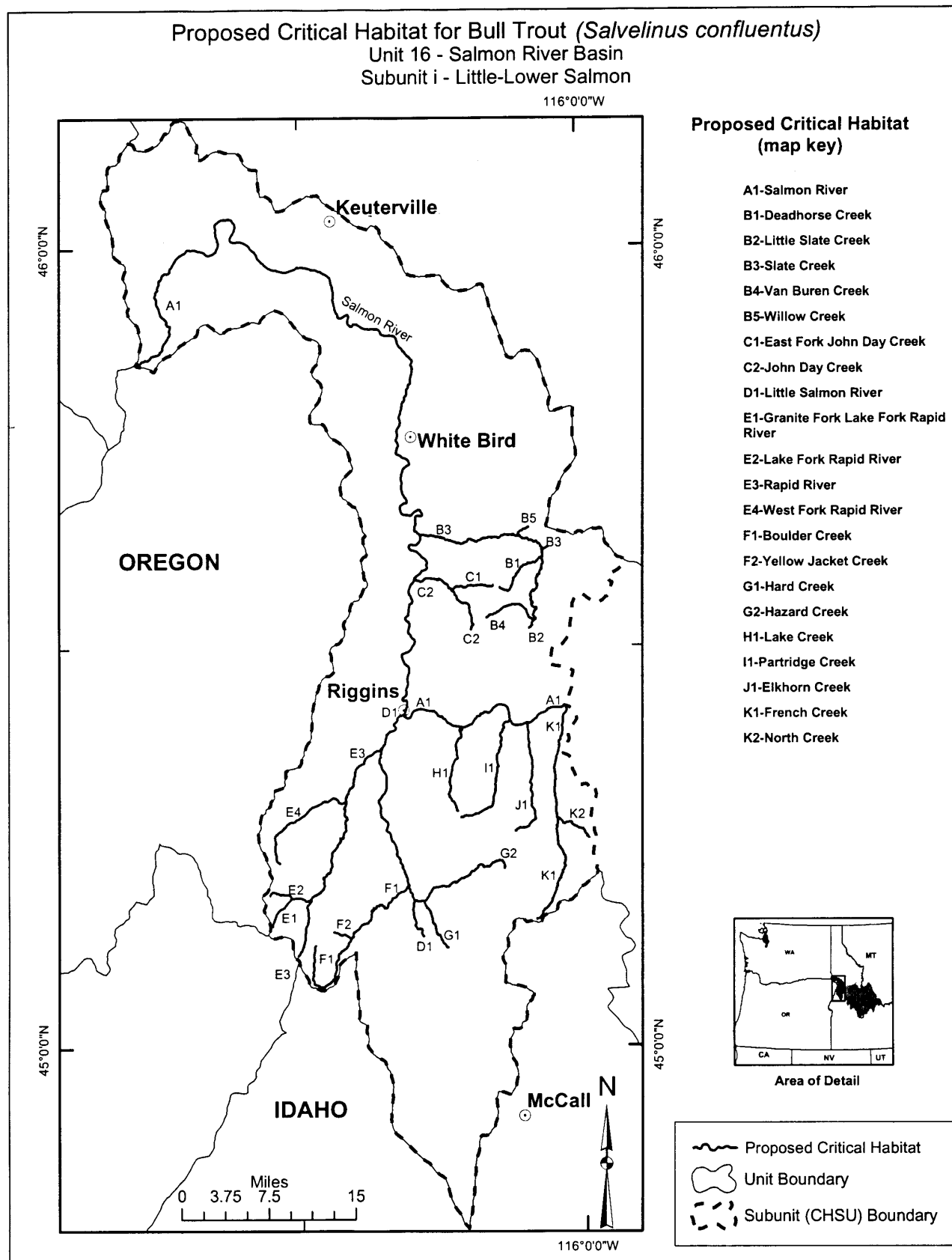
**BILLING CODE 4310-55-P**

Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

Unit 16 - Salmon River Basin

Subunit i - Little-Lower Salmon

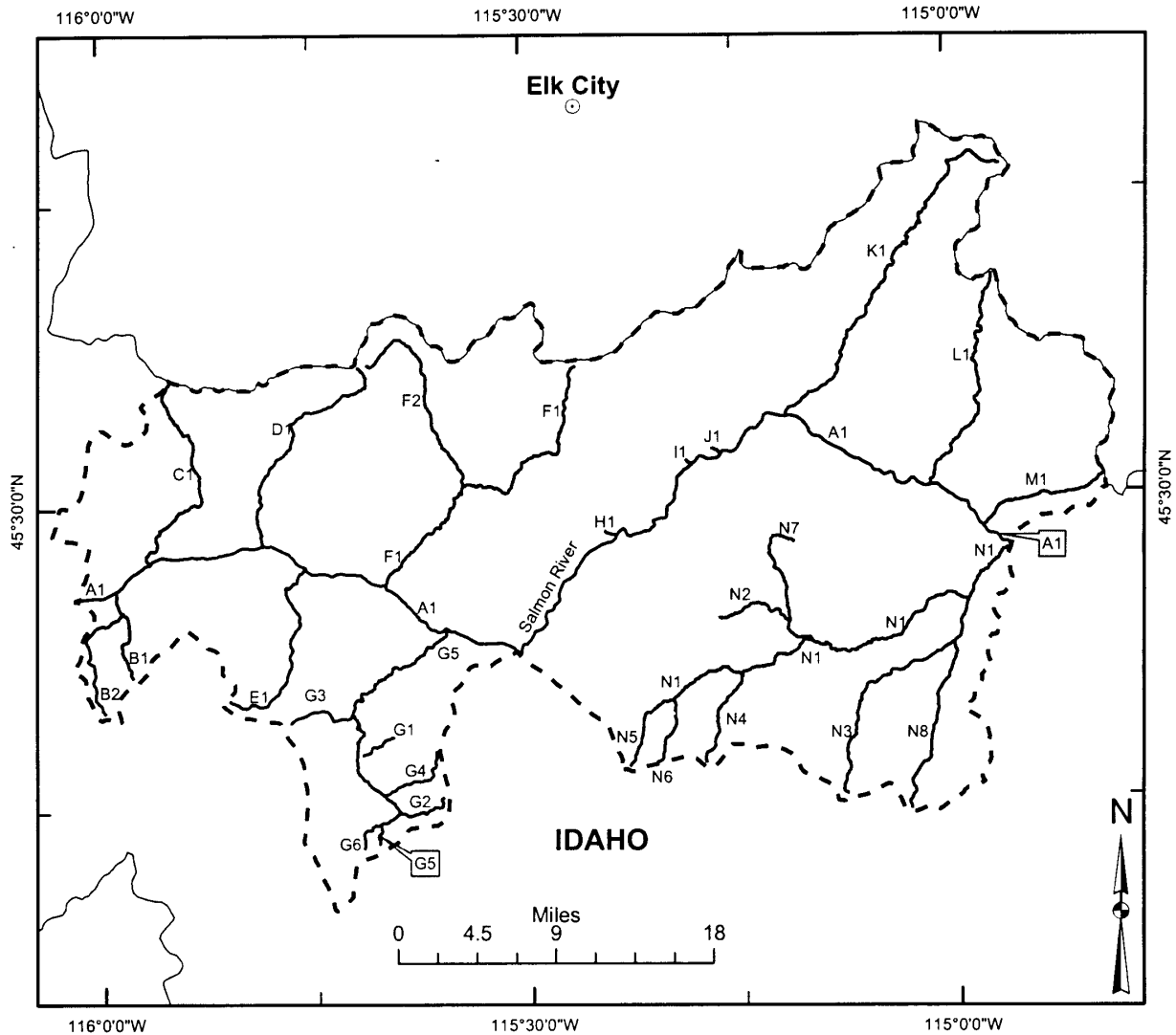
116°0'0"W



# Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

Unit 16 - Salmon River Basin

Subunit ii - Middle Salmon - Chamberlain



## Proposed Critical Habitat (map key)

A1-Salmon River

B1-East Fork Fall Creek

B2-Fall Creek

C1-Wind River

D1-Sheep Creek

E1-California Creek

F1-Crooked Creek

F2-Lake Creek

G1-Guard Creek

G2-Mayflower Creek

G3-Schissler Creek

G4-Slaughter Creek

G5-Warren Creek

G6-Webfoot Creek

H1-Rhett Creek

I1-Little Mallard Creek

J1-Big Mallard Creek

K1-Bargamin Creek

L1-Sabe Creek

M1-Big Harrington Creek

N1-Chamberlain Creek

N2-Game Creek

N3-McCalla Creek

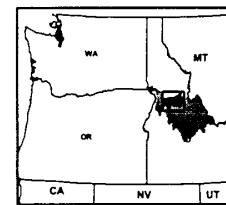
N4-Moose Creek

N5-Rim Creek

N6-South Fork Chamberlain Creek

N7-West Fork Chamberlain Creek

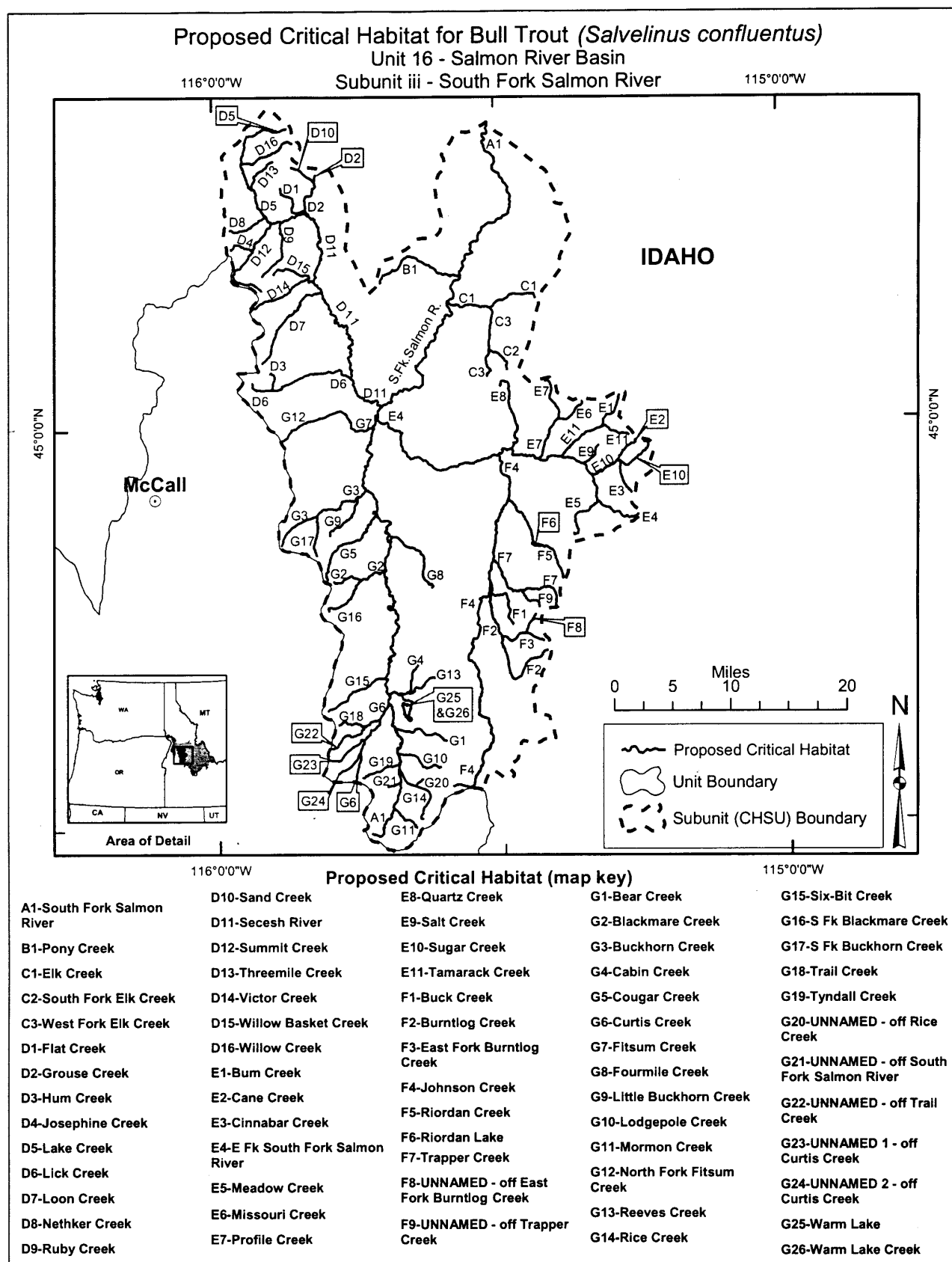
N8-Whimstick Creek

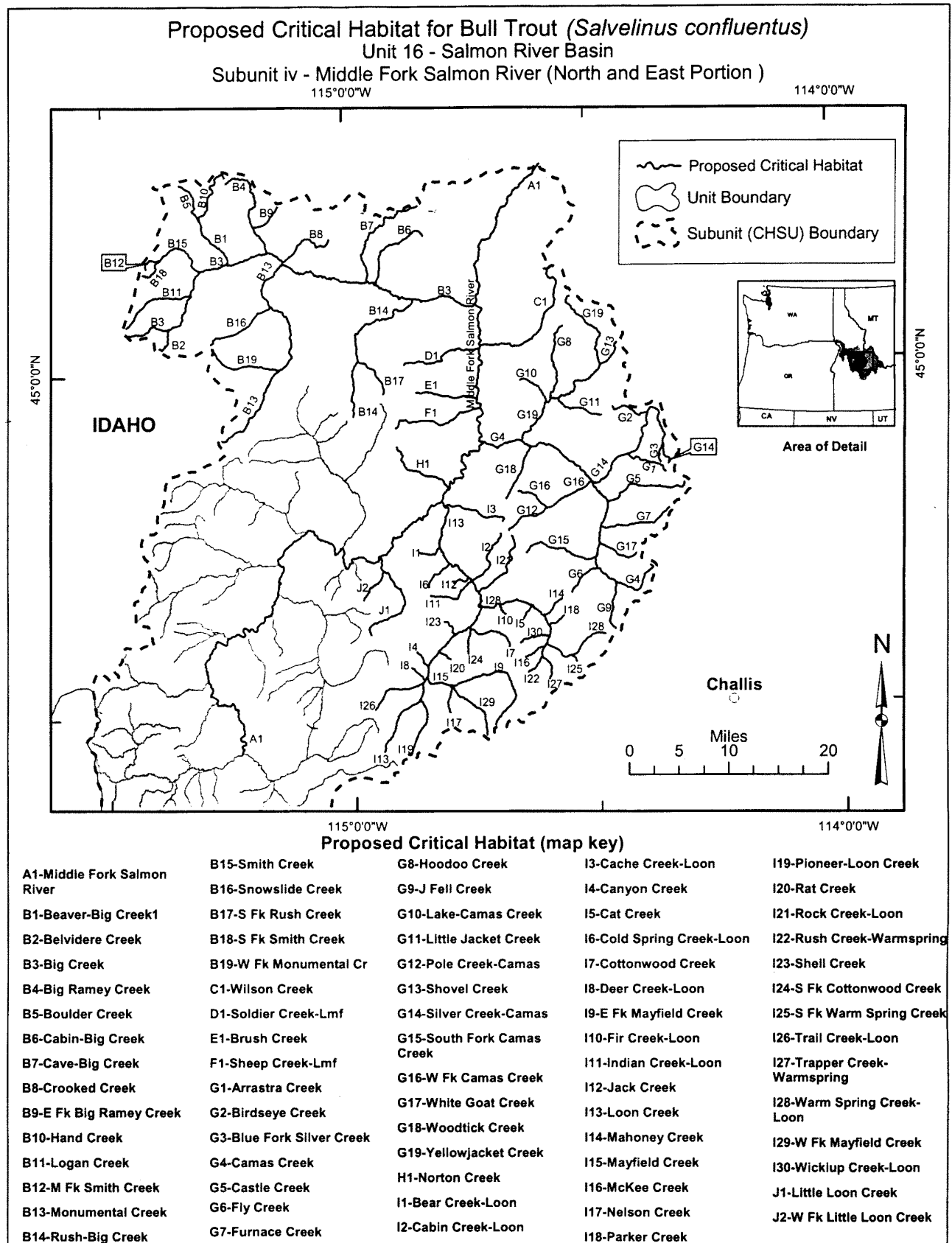


Area of Detail

- Proposed Critical Habitat
- Unit Boundary
- Subunit (CHSU) Boundary



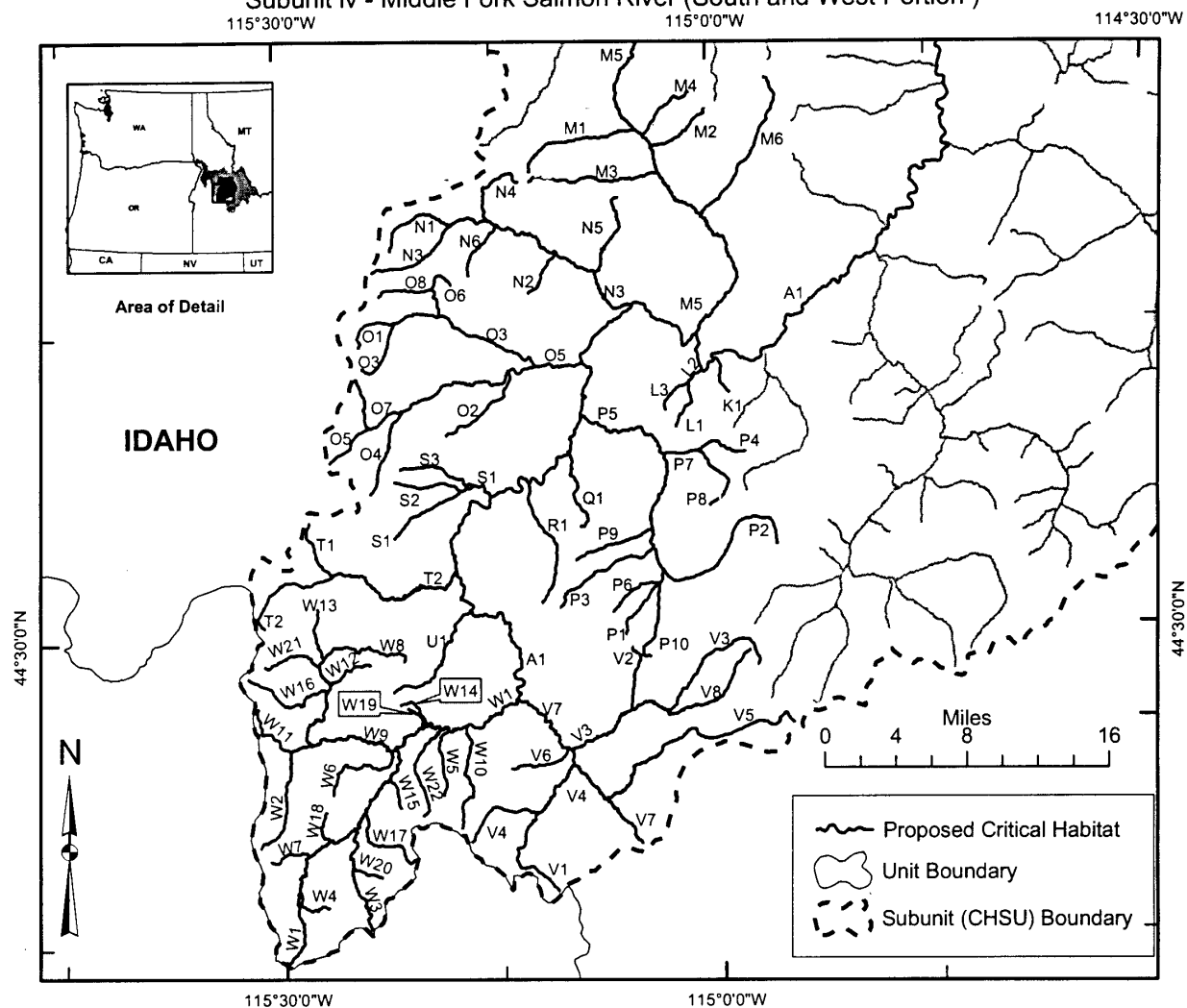




Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

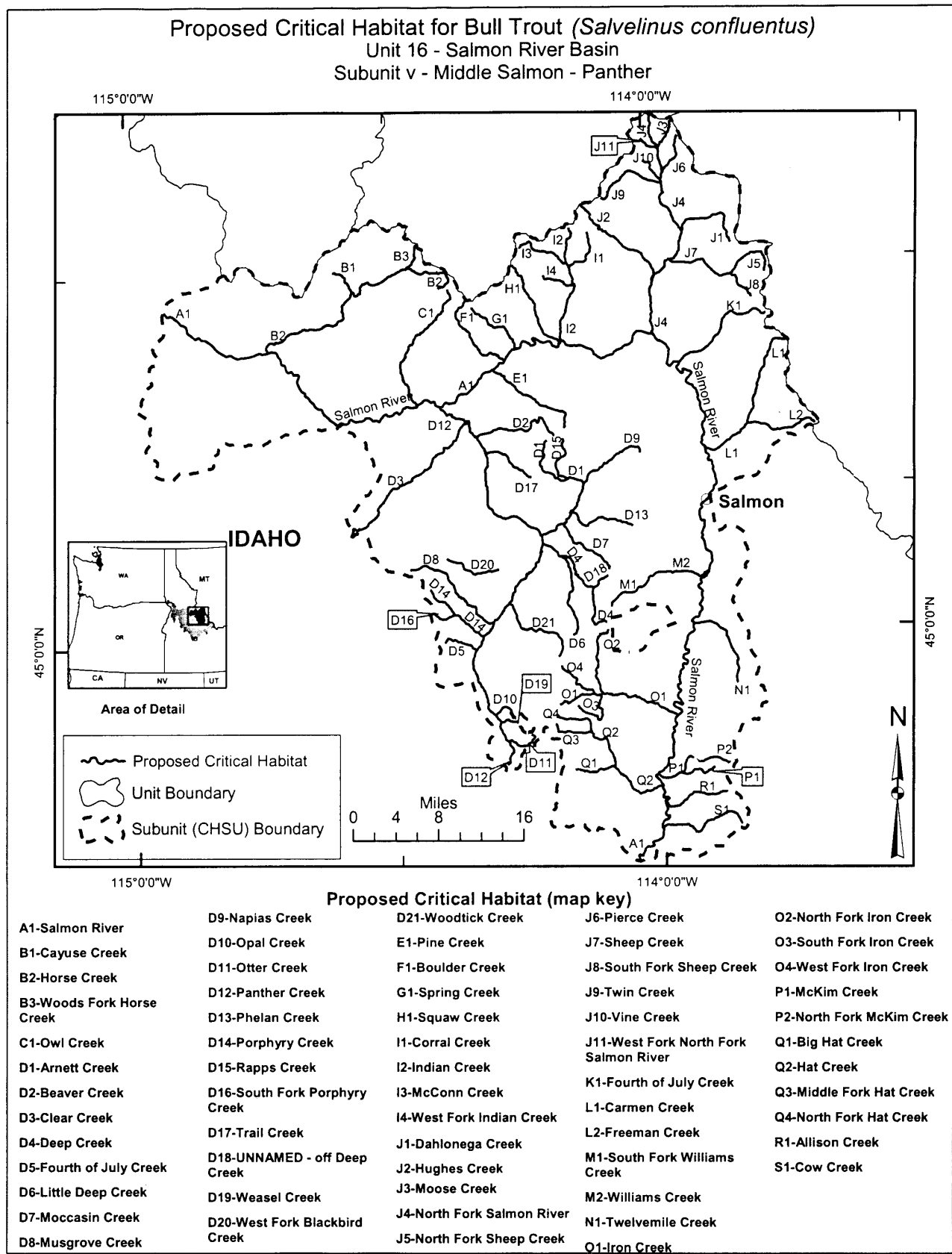
## Unit 16 - Salmon River Basin

## Subunit iv - Middle Fork Salmon River (South and West Portion)

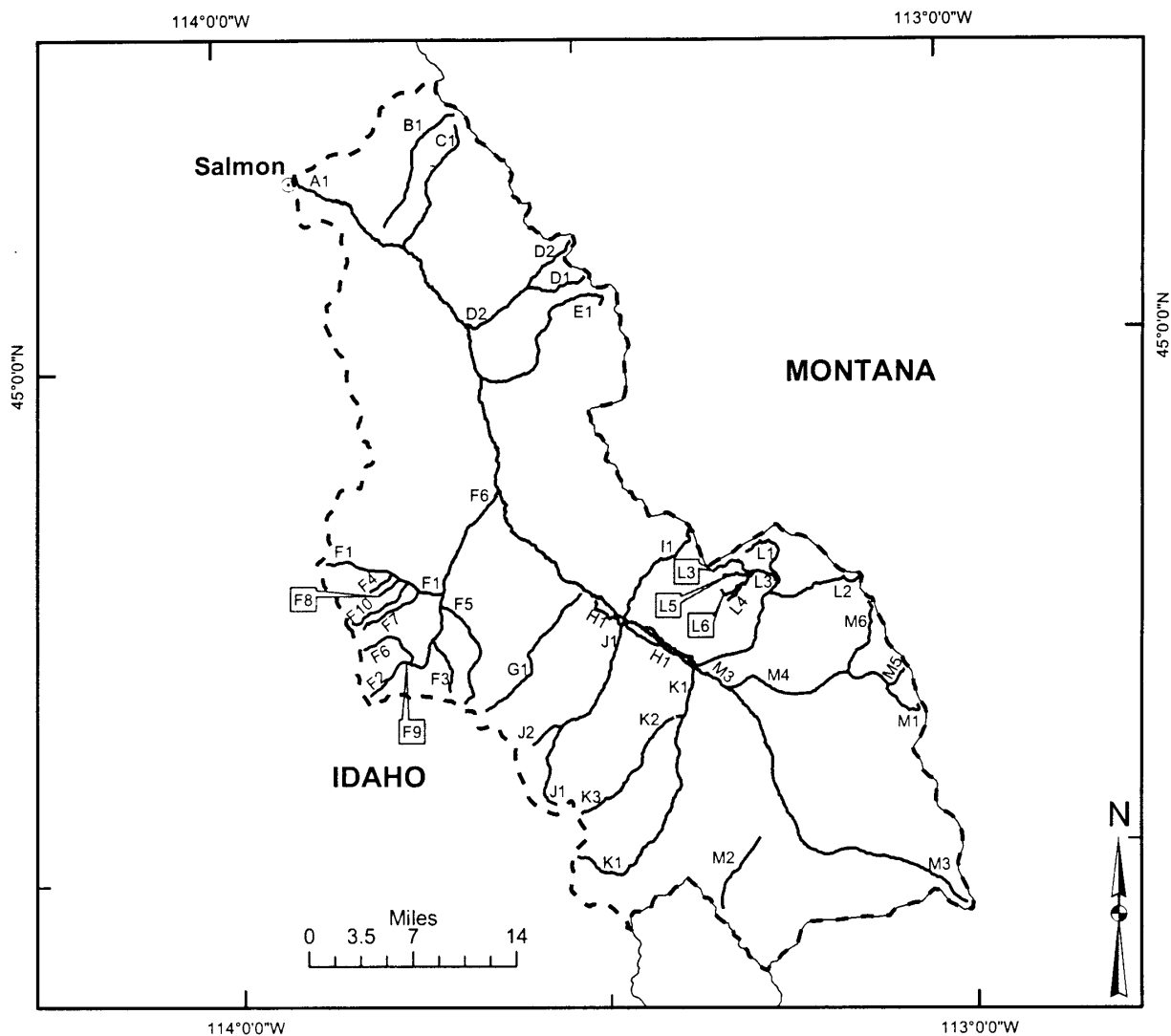


## Proposed Critical Habitat (map key)

A1-M Fk Salmon River	N5-M Fk Indian Creek	P5-Rapid River	V3-Beaver Creek-Marsh	W10-Fir-Bv Creek
K1-Little Creek	N6-Papoose Creek-Indian	P6-Seafoam Creek	V4-Cape Horn Creek	W11-Little Beaver Creek
L1-E Fk Thomas Creek	O1-Browning Creek	P7-Sheep Creek	V5-Knapp Creek	W12-Little E Fk Elk Creek
L2-Thomas Creek	O2-Forty-Five Creek	P8-South Fork Sheep Creek	V6-Lola Creek	W13-North Fork Elk Creek
L3-W Fork Thomas Creek	O3-Little Pistol Creek	P9-Sulphur Creek-Rapid	V7-Marsh Creek	W14-Poker Creek
M1-Big Cottonwood Creek	O4-Luger Creek	Q1-Greyhound Creek	V8-Winnemucca Creek	W15-Pole-Bv Creek
M2-Buck-Marble Creek	O5-Pistol Creek	R1-Soldier Creek-Umf	W1-Bear Valley Creek	W16-Porter Creek
M3-Dynamite Creek	O6-Springfield Creek	S1-Elkhorn Creek	W2-Bearskin Creek	W17-Sack Creek
M4-Little Cottonwood Creek	O7-Thirty-Eight Creek	S2-M Fk Elkhorn Creek	W3-Cache Creek	W18-Sheep Trail Creek
M5-Marble Creek	O8-W Fk Springfield Creek	S3-N Fk Elkhorn Creek	W4-Casner Creek	W19-UNNAMED - off Bear Valley Creek
M6-Trail Creek-Marble	P10-Vanity Creek	T1-North Fork Sulphur Creek	W5-Cold-Bv Creek	W20-UNNAMED - off Cache Creek
N1-Big Chief Creek	P1-Baldwin Creek	T2-Sulphur Creek	W6-Cook Creek	W21-W Fk Elk Creek
N2-Cultus Creek	P2-Duffield Creek	U1-Dagger Creek	W7-Cub Creek	W22-Wyoming Creek
N3-Indian Creek	P3-Float Creek	V1-Banner Creek	W8-East Fork Elk Creek	
N4-Little Indian Creek	P4-North Fork Sheep Creek	V2-Bear Creek-Marsh	W9-Elk Creek	

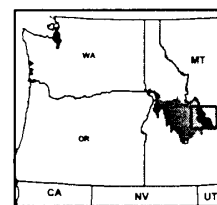


**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 16 - Salmon River Basin**  
**Subunit vi - Lemhi River**

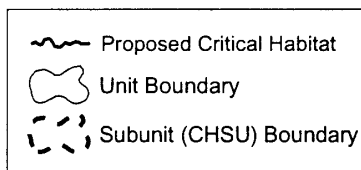


**Proposed Critical Habitat (map key)**

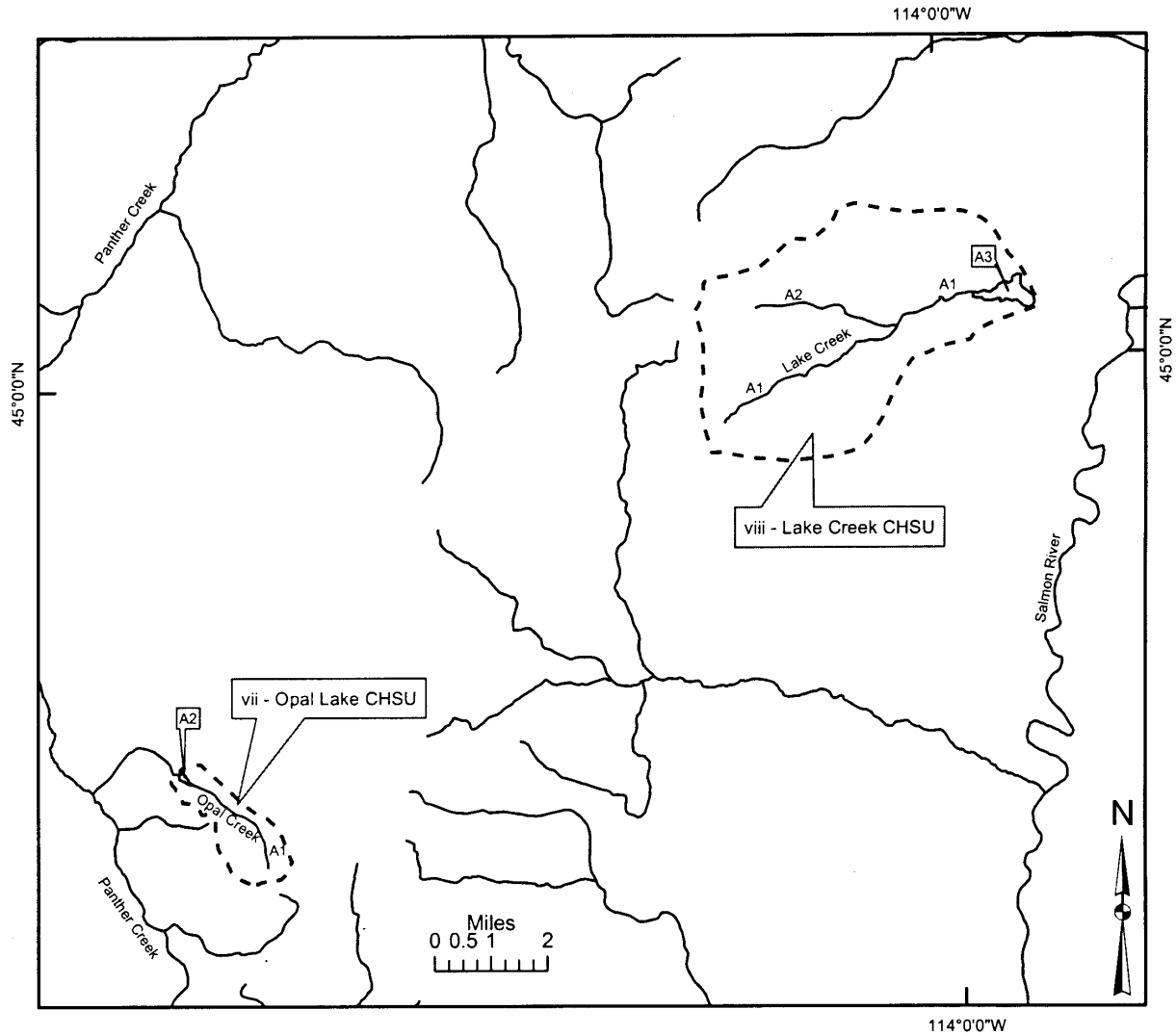
A1-Lemhi River	F8-Short Creek	L3-Hood Gulch Springs 1
B1-Geertson Creek	F9-West Fork Hayden Creek	L4-Hood Gulch Springs 2
C1-Bohannon Creek	F10-Wright Creek	L5-Hood Gulch Springs 3
D1-East Fork Kenney Creek	G1-Mill Creek	L6-Hood Gulch Springs 4
D2-Kenney Creek	H1-Big Springs Creek	M1-Big Bear Creek
E1-Pattee Creek	I1-Little Eightmile Creek	M2-Deer Creek
F1-Bear Valley Creek	J1-Big Eightmile Creek	M3-Eighteenmile Creek
F2-Bray Creek	J2-Dairy Creek	M4-Hawley Creek
F3-Cooper Creek	K1-Big Timber Creek	M5-Meadow Creek
F4-Deer Creek	K2-Little Timber Creek	M6-Reservoir Creek
F5-East Fork Hayden Creek	K3-Middle Fork Little Timber Creek	
F6-Hayden Creek	L1-Canyon Creek	
F7-Kadletz Creek	L2-Cruikshank Creek	



Area of Detail



**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 16 - Salmon River Basin**  
**Subunits vii and viii - Opal Lake and Lake Creek**



**Proposed Critical Habitat (map key)**

**vii - Opal Creek CHSU**

**A1-Opal Creek**

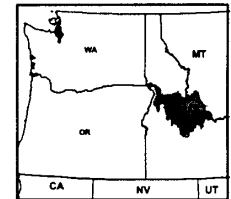
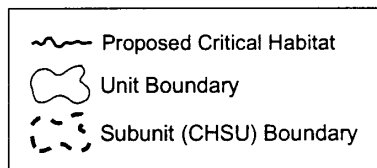
**A2-Opal Lake**

**viii - Lake Creek**

**A1-Lake Creek**

**A2-North Fork Lake Creek**

**A3-Williams Lake**

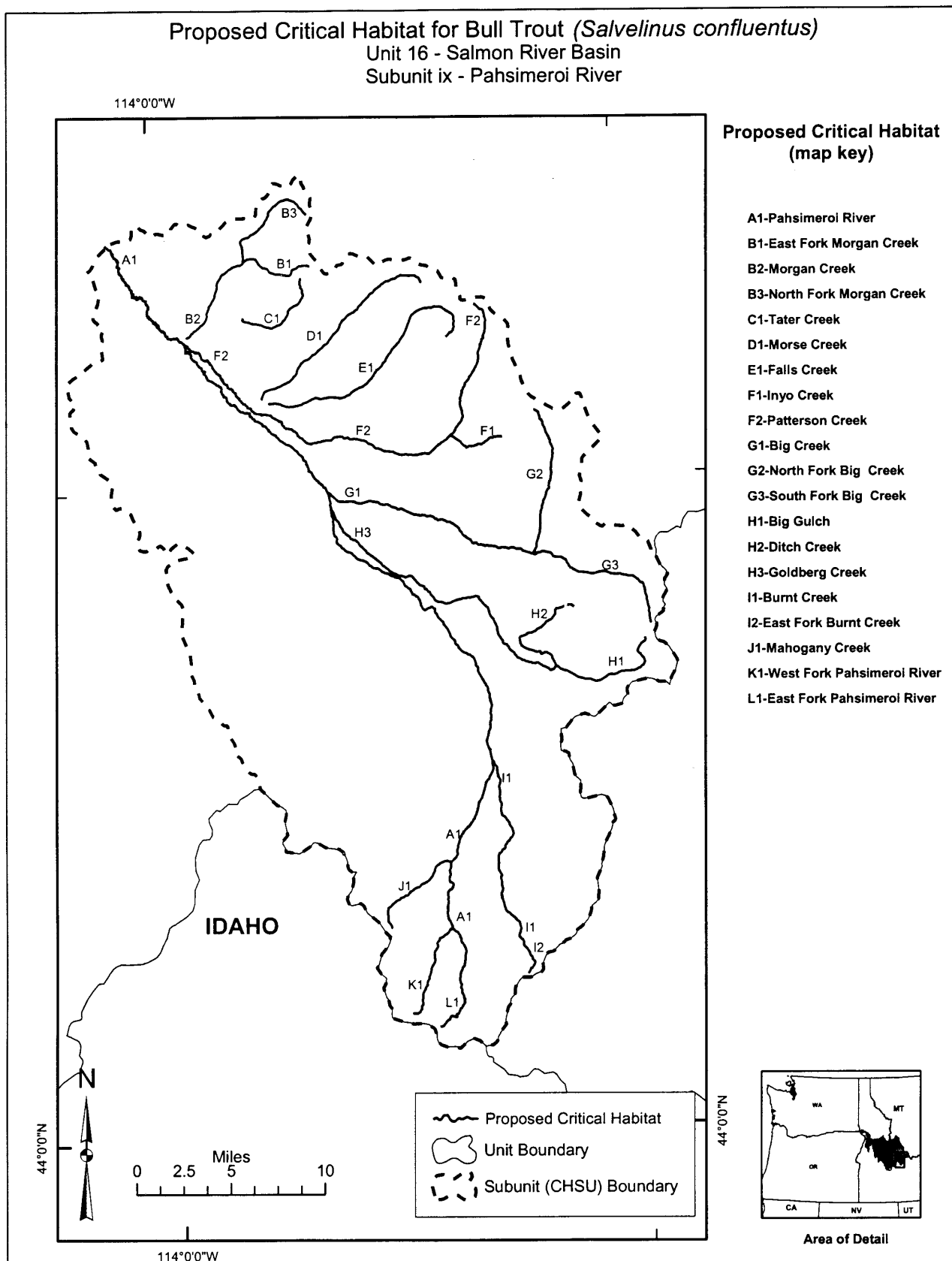


**Area of Detail**

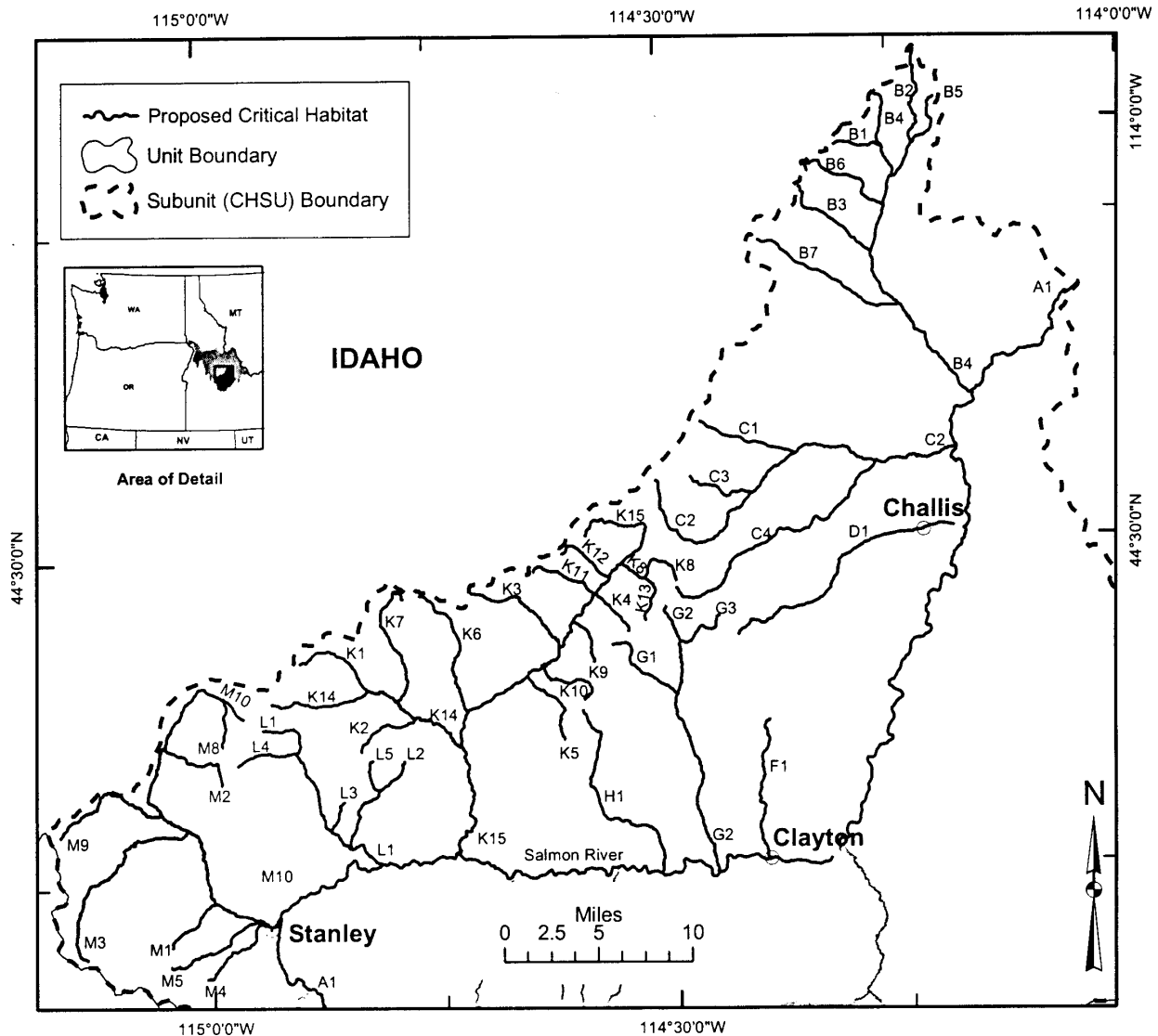
Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

Unit 16 - Salmon River Basin

Subunit ix - Pahsimeroi River



**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 16 - Salmon River Basin**  
**Subunit x - Upper Salmon River - North Portion**



**Proposed Critical Habitat (map key)**

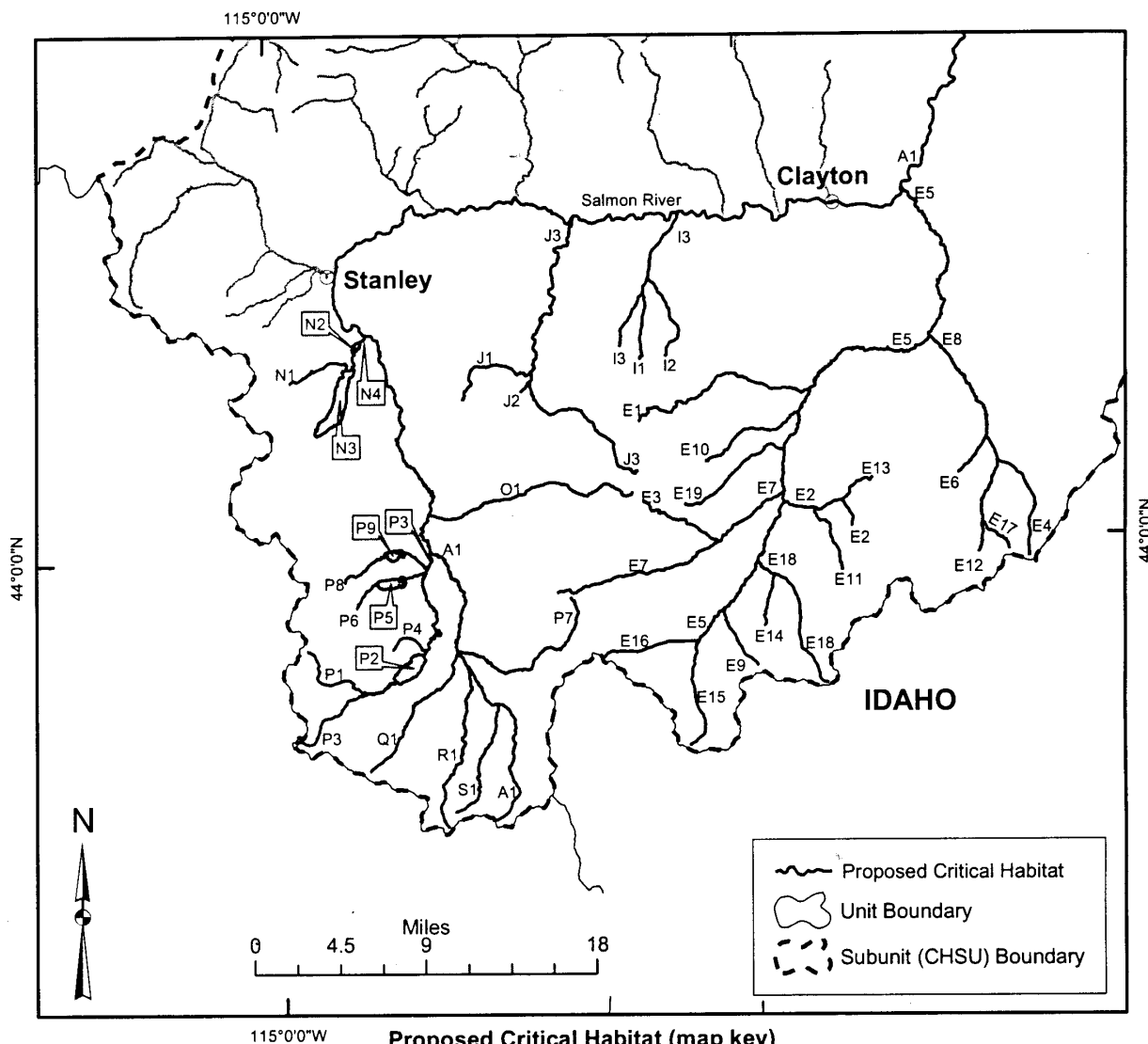
A1-Salmon River	C3-Lodgepole Creek	K4-Elevenmile Creek	K14-West Fork Yankee Fork	M3-Elk Creek
B1-Alder Creek	C4-Mill Creek	K5-Fivemile Creek	K15-Yankee Fork	M4-Goat Creek
B2-Corral Creek	D1-Garden Creek	K6-Jordan Creek	L1-Basin Creek	M5-Iron Creek
B3-Lick Creek	F1-Kinnikinic Creek	K7-Lightning Creek	L2-East Basin Creek	M6-Job Creek
B4-Morgan Creek	G1-Martin Creek	K8-McKay Creek	L3-Short Creek	M7-Meadow Creek
B5-UNNAMED - off Corral Creek	G2-Squaw Creek	K9-Ninemile Creek	L4-Sunday Creek	M8-Prospect Creek
B6-Van Horn Creek	G3-Willow Creek	K10-Sixmile Creek	L5-UNNAMED - off East Basin Creek	M9-Trip Creek
B7-W Fk Morgan Creek	H1-Thompson Creek	K11-Tenmile Creek	M1-Crooked Creek	M10-Valley Creek
C1-Bear Creek	K1-Cabin Creek	K12-Twelvemile Creek	M2-East Fork Valley Creek	
C2-Challis Creek	K2-Deadwood Creek	K13-UNNAMED - off McKay Creek		
	K3-Eightmile Creek			



Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

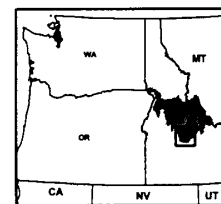
Unit 16 - Salmon River Basin

Subunit x - Upper Salmon River - South Portion



## Proposed Critical Habitat (map key)

E1-Big Boulder Creek	E13-North Fork Bowery Creek	J2-Pigtail Creek	P7-Pole Creek
E2-Bowery Creek	E14-Roaring Creek	J3-Warm Springs Creek	P8-Yellowbelly Creek
E3-Chamberlain Creek	E15-South Fork East Fork Salmon River	N1-Fishhook Creek	P9-Yellowbelly Lake
E4-East Fork Herd Creek	E16-West Fork East Fork Salmon River	N2-Little Redfish Lake	Q1-Beaver Creek
E5-East Fork Salmon River	E17-West Fork Herd Creek	N3-Redfish Lake	R1-Smiley Creek
E6-East Pass Creek	E18-West Pass Creek	N4-Redfish Lake Creek	S1-Frenchman Creek
E7-Germana Creek	E19-Wickiup Creek	O1-Fourth of July Creek	
E8-Herd Creek	I1-Livingston Creek	P1-Alpine Creek	
E9-Ibex Creek	I2-Silver Rule Creek	P2-Alturas Lake	
E10-Little Boulder Creek	I3-Slate Creek	P3-Alturas Lake Creek	
E11-Long Tom Creek	J1-Martin Creek	P4-Cabin Creek	
E12-Meridian Creek		P5-Petit Lake	
		P6-Pettit Lake Creek	



Area of Detail

(21) Unit 17—Southwest Idaho River Basins.

(i) Critical Habitat Subunit—Anderson Ranch.

(A) Anderson Ranch Reservoir centered at 43.394 degrees latitude, and –115.39 degrees longitude. Dog Creek from a lower point located at 43.53 degrees latitude, and –115.299 degrees longitude to an upper point located at 43.564 degrees latitude, and –115.379 degrees longitude. South Fork Boise River from a lower point located at 43.335 degrees latitude, and –115.536 degrees longitude to an upper point located at 43.774 degrees latitude, and –114.928 degrees longitude.

(B) Feather River from a lower point located at 43.607 degrees latitude, and –115.262 degrees longitude to an upper point located at 43.678 degrees latitude, and –115.264 degrees longitude.

(C) East Fork Elk Creek from a lower point located at 43.709 degrees latitude, and –115.253 degrees longitude to an upper point located at 43.742 degrees latitude, and –115.231 degrees longitude. Elk Creek from a lower point located at 43.678 degrees latitude, and –115.264 degrees longitude to an upper point located at 43.751 degrees latitude, and –115.306 degrees longitude.

(D) Willow Creek from a lower point located at 43.605 degrees latitude, and –115.143 degrees longitude to an upper point located at 43.725 degrees latitude, and –115.022 degrees longitude.

(E) Big Water Gulch from a lower point located at 43.604 degrees latitude, and –115.107 degrees longitude to an upper point located at 43.665 degrees latitude, and –115.042 degrees longitude.

(F) Deadwood Creek from a lower point located at 43.586 degrees latitude, and –115.007 degrees longitude to an upper point located at 43.532 degrees latitude, and –115.015 degrees longitude.

(G) Burnt Log Creek from a lower point located at 43.643 degrees latitude, and –114.969 degrees longitude to an upper point located at 43.646 degrees latitude, and –115.016 degrees longitude. East Fork Skeleton Creek from a lower point located at 43.658 degrees latitude, and –114.998 degrees longitude to an upper point located at 43.685 degrees latitude, and –115.018 degrees longitude. Skeleton Creek from a lower point located at 43.589 degrees latitude, and –115.021 degrees longitude to an upper point located at 43.694 degrees latitude, and –114.986 degrees longitude. West Fork Skeleton Creek from a lower point located at 43.651 degrees latitude, and –114.973 degrees longitude to an upper point

located at 43.672 degrees latitude, and –115.026 degrees longitude.

(H) Boardman Creek from a lower point located at 43.612 degrees latitude, and –114.939 degrees longitude to an upper point located at 43.525 degrees latitude, and –115.018 degrees longitude. Smokey Dome Canyon from a lower point located at 43.547 degrees latitude, and –114.955 degrees longitude to an upper point located at 43.503 degrees latitude, and –114.937 degrees longitude.

(I) Big Peak Creek from a lower point located at 43.658 degrees latitude, and –114.794 degrees longitude to an upper point located at 43.628 degrees latitude, and –114.729 degrees longitude. Big Smoky Creek from a lower point located at 43.604 degrees latitude, and –114.915 degrees longitude to an upper point located at 43.792 degrees latitude, and –114.755 degrees longitude. Bluff Creek from a lower point located at 43.7 degrees latitude, and –114.754 degrees longitude to an upper point located at 43.698 degrees latitude, and –114.685 degrees longitude. Carrie Creek from a lower point located at 43.552 degrees latitude, and –114.759 degrees longitude to an upper point located at 43.59 degrees latitude, and –114.69 degrees longitude. Little Smoky Creek from a lower point located at 43.608 degrees latitude, and –114.871 degrees longitude to an upper point located at 43.585 degrees latitude, and –114.679 degrees longitude. Loggy Creek from a lower point located at 43.763 degrees latitude, and –114.787 degrees longitude to an upper point located at 43.8 degrees latitude, and –114.789 degrees longitude. North Fork Big Smoky Creek from a lower point located at 43.686 degrees latitude, and –114.778 degrees longitude to an upper point located at 43.723 degrees latitude, and –114.788 degrees longitude. Salt Creek from a lower point located at 43.607 degrees latitude, and –114.871 degrees longitude to an upper point located at 43.539 degrees latitude, and –114.859 degrees longitude. Snowslide Creek from a lower point located at 43.723 degrees latitude, and –114.788 degrees longitude to an upper point located at 43.739 degrees latitude, and –114.829 degrees longitude. West Fork Big Smoky Creek from a lower point located at 43.744 degrees latitude, and –114.726 degrees longitude to an upper point located at 43.788 degrees latitude, and –114.82 degrees longitude.

(J) Bear Creek from a lower point located at 43.727 degrees latitude, and –114.901 degrees longitude to an upper point located at 43.703 degrees latitude, and –115.006 degrees longitude. Goat Creek from a lower point located at

43.715 degrees latitude, and –114.979 degrees longitude to an upper point located at 43.73 degrees latitude, and –115.006 degrees longitude.

(K) Emma Creek from a lower point located at 43.735 degrees latitude, and –114.906 degrees longitude to an upper point located at 43.791 degrees latitude, and –114.834 degrees longitude. Unnamed creek off Emma Creek from a lower point located at 43.759 degrees latitude, and –114.871 degrees longitude to an upper point located at 43.772 degrees latitude, and –114.883 degrees longitude.

(L) Bass Creek from a lower point located at 43.791 degrees latitude, and –114.975 degrees longitude to an upper point located at 43.741 degrees latitude, and –115.002 degrees longitude. Little Bear Creek from a lower point located at 43.779 degrees latitude, and –114.935 degrees longitude to an upper point located at 43.746 degrees latitude, and –114.974 degrees longitude. North Fork Ross Fork from a lower point located at 43.796 degrees latitude, and –114.988 degrees longitude to an upper point located at 43.853 degrees latitude, and –114.975 degrees longitude. Ross Fork from a lower point located at 43.774 degrees latitude, and –114.928 degrees longitude to an upper point located at 43.796 degrees latitude, and –114.988 degrees longitude. South Fork Ross Fork from a lower point located at 43.796 degrees latitude, and –114.988 degrees longitude to an upper point located at 43.735 degrees latitude, and –115.021 degrees longitude.

(M) Johnson Creek from a lower point located at 43.774 degrees latitude, and –114.928 degrees longitude to an upper point located at 43.844 degrees latitude, and –114.971 degrees longitude. Vienna Creek from a lower point located at 43.802 degrees latitude, and –114.909 degrees longitude to an upper point located at 43.791 degrees latitude, and –114.86 degrees longitude.

(ii) Critical Habitat Subunit—Arrowrock.

(A) Arrowrock Reservoir centered at 43.606 degrees latitude, and –115.833 degrees longitude. Boise River from a lower point located at 43.645 degrees latitude, and –115.748 degrees longitude to an upper point located at 43.713 degrees latitude, and –115.635 degrees longitude. South Fork Boise River from a lower point located at 43.55 degrees latitude, and –115.721 degrees longitude to an upper point located at 43.335 degrees latitude, and –115.536 degrees longitude.

(B) Rattlesnake Creek from a lower point located at 43.561 degrees latitude, and –115.739 degrees longitude to an upper point located at 43.622 degrees

latitude, and -115.525 degrees longitude. Russel Gulch from a lower point located at 43.591 degrees latitude, and -115.595 degrees longitude to an upper point located at 43.577 degrees latitude, and -115.559 degrees longitude.

(C) Devils Creek from a lower point located at 43.685 degrees latitude, and -115.591 degrees longitude to an upper point located at 43.642 degrees latitude, and -115.563 degrees longitude. East Fork Sheep Creek from a lower point located at 43.684 degrees latitude, and -115.547 degrees longitude to an upper point located at 43.674 degrees latitude, and -115.485 degrees longitude. Sheep Creek from a lower point located at 43.697 degrees latitude, and -115.661 degrees longitude to an upper point located at 43.617 degrees latitude, and -115.51 degrees longitude.

(D) Middle Fork Boise River from a lower point located at 43.713 degrees latitude, and -115.635 degrees longitude to an upper point located at 43.946 degrees latitude, and -115.032 degrees longitude.

(E) East Fork Roaring River from a lower point located at 43.695 degrees latitude, and -115.464 degrees longitude to an upper point located at 43.616 degrees latitude, and -115.438 degrees longitude. Middle Fork Roaring River from a lower point located at 43.688 degrees latitude, and -115.451 degrees longitude to an upper point located at 43.624 degrees latitude, and -115.465 degrees longitude. Roaring River from a lower point located at 43.79 degrees latitude, and -115.439 degrees longitude to an upper point located at 43.647 degrees latitude, and -115.479 degrees longitude.

(F) Buck Creek from a lower point located at 43.803 degrees latitude, and -115.396 degrees longitude to an upper point located at 43.747 degrees latitude, and -115.325 degrees longitude.

(G) Black Warrior Creek from a lower point located at 43.818 degrees latitude, and -115.29 degrees longitude to an upper point located at 43.945 degrees latitude, and -115.189 degrees longitude. Unnamed creek off Black Warrior Creek from a lower point located at 43.878 degrees latitude, and -115.244 degrees longitude to an upper point located at 43.896 degrees latitude, and -115.263 degrees longitude. West Warrior Creek from a lower point located at 43.84 degrees latitude, and -115.256 degrees longitude to an upper point located at 43.882 degrees latitude, and -115.297 degrees longitude.

(H) Bald Mountain Creek from a lower point located at 43.818 degrees latitude, and -115.266 degrees longitude to an upper point located at 43.756 degrees

latitude, and -115.277 degrees longitude.

(I) Little Queens River from a lower point located at 43.843 degrees latitude, and -115.184 degrees longitude to an upper point located at 43.93 degrees latitude, and -115.143 degrees longitude. Queens River from a lower point located at 43.821 degrees latitude, and -115.208 degrees longitude to an upper point located at 43.959 degrees latitude, and -115.118 degrees longitude. Scenic Creek from a lower point located at 43.921 degrees latitude, and -115.178 degrees longitude to an upper point located at 43.901 degrees latitude, and -115.145 degrees longitude. Scott Creek from a lower point located at 43.883 degrees latitude, and -115.18 degrees longitude to an upper point located at 43.891 degrees latitude, and -115.152 degrees longitude. Tripod Creek from a lower point located at 43.895 degrees latitude, and -115.188 degrees longitude to an upper point located at 43.896 degrees latitude, and -115.154 degrees longitude.

(J) Decker Creek from a lower point located at 43.769 degrees latitude, and -115.144 degrees longitude to an upper point located at 43.718 degrees latitude, and -115.046 degrees longitude. Grouse Creek from a lower point located at 43.767 degrees latitude, and -115.122 degrees longitude to an upper point located at 43.731 degrees latitude, and -115.078 degrees longitude. Sawmill Creek from a lower point located at 43.761 degrees latitude, and -115.12 degrees longitude to an upper point located at 43.709 degrees latitude, and -115.094 degrees longitude. Yuba River from a lower point located at 43.803 degrees latitude, and -115.159 degrees longitude to an upper point located at 43.708 degrees latitude, and -115.201 degrees longitude.

(K) Trail Creek from a lower point located at 43.763 degrees latitude, and -115.145 degrees longitude to an upper point located at 43.707 degrees latitude, and -115.117 degrees longitude.

(L) Mattingly Creek from a lower point located at 43.846 degrees latitude, and -115.048 degrees longitude to an upper point located at 43.865 degrees latitude, and -114.984 degrees longitude.

(M) Hungarian Creek from a lower point located at 43.818 degrees latitude, and -115.533 degrees longitude to an upper point located at 43.818 degrees latitude, and -115.539 degrees longitude. North Fork Boise River from a lower point located at 43.713 degrees latitude, and -115.635 degrees longitude to an upper point located at 44.095 degrees latitude, and -115.225 degrees

longitude. Rabbit Creek from a lower point located at 43.79 degrees latitude, and -115.602 degrees longitude to an upper point located at 43.797 degrees latitude, and -115.612 degrees longitude.

(N) Banner Creek from a lower point located at 43.983 degrees latitude, and -115.547 degrees longitude to an upper point located at 43.998 degrees latitude, and -115.542 degrees longitude. Crooked River from a lower point located at 43.853 degrees latitude, and -115.536 degrees longitude to an upper point located at 44.027 degrees latitude, and -115.337 degrees longitude. Pikes Fork from a lower point located at 43.971 degrees latitude, and -115.561 degrees longitude to an upper point located at 44.048 degrees latitude, and -115.44 degrees longitude. Ski Creek from a lower point located at 43.88 degrees latitude, and -115.58 degrees longitude to an upper point located at 43.865 degrees latitude, and -115.613 degrees longitude.

(O) Bear Creek from a lower point located at 43.938 degrees latitude, and -115.456 degrees longitude to an upper point located at 44.017 degrees latitude, and -115.405 degrees longitude. Bear River from a lower point located at 43.892 degrees latitude, and -115.488 degrees longitude to an upper point located at 43.987 degrees latitude, and -115.341 degrees longitude. Cub Creek from a lower point located at 43.98 degrees latitude, and -115.401 degrees longitude to an upper point located at 43.979 degrees latitude, and -115.352 degrees longitude. Louise Creek from a lower point located at 43.968 degrees latitude, and -115.424 degrees longitude to an upper point located at 43.964 degrees latitude, and -115.391 degrees longitude. South Fork Cub Creek from a lower point located at 43.977 degrees latitude, and -115.388 degrees longitude to an upper point located at 43.968 degrees latitude, and -115.355 degrees longitude.

(P) Trail Creek from a lower point located at 43.912 degrees latitude, and -115.406 degrees longitude to an upper point located at 43.908 degrees latitude, and -115.399 degrees longitude.

(Q) Lodgepole Creek from a lower point located at 43.93 degrees latitude, and -115.314 degrees longitude to an upper point located at 43.888 degrees latitude, and -115.294 degrees longitude.

(R) Johnson Creek from a lower point located at 43.94 degrees latitude, and -115.284 degrees longitude to an upper point located at 43.947 degrees latitude, and -115.129 degrees longitude.

(S) Big Silver Creek from a lower point located at 43.99 degrees latitude,

and -115.255 degrees longitude to an upper point located at 43.989 degrees latitude, and -115.327 degrees longitude. Little Silver Creek from a lower point located at 43.997 degrees latitude, and -115.288 degrees longitude to an upper point located at 44.001 degrees latitude, and -115.325 degrees longitude.

(T) Cow Creek from a lower point located at 43.991 degrees latitude, and -115.254 degrees longitude to an upper point located at 44.021 degrees latitude, and -115.295 degrees longitude.

(U) Ballentyne Creek from a lower point located at 44.011 degrees latitude, and -115.232 degrees longitude to an upper point located at 43.983 degrees latitude, and -115.142 degrees longitude.

(V) West Fork Creek from a lower point located at 44.056 degrees latitude, and -115.209 degrees longitude to an upper point located at 44.048 degrees latitude, and -115.246 degrees longitude.

(W) McLeod Creek from a lower point located at 44.057 degrees latitude, and -115.207 degrees longitude to an upper point located at 44.023 degrees latitude, and -115.162 degrees longitude.

(X) McPhearson Creek from a lower point located at 44.066 degrees latitude, and -115.198 degrees longitude to an upper point located at 44.038 degrees latitude, and -115.158 degrees longitude.

(iii) Critical Habitat Subunit—Lucky Peak.

(A) Lucky Peak Reservoir centered at 43.564 degrees latitude, and -115.997 degrees longitude. Mores Creek from a lower point located at 43.618 degrees latitude, and -115.999 degrees longitude to an upper point located at 43.959 degrees latitude, and -115.7 degrees longitude.

(iv) Critical Habitat Subunit—Deadwood River.

(A) Deadwood Reservoir centered at 44.309 degrees latitude, and -115.662 degrees longitude. Deadwood River from a lower point located at 44.342 degrees latitude, and -115.657 degrees longitude to an upper point located at 44.547 degrees latitude, and -115.56 degrees longitude.

(B) Daisy Creek from a lower point located at 44.26 degrees latitude, and -115.693 degrees longitude to an upper point located at 44.269 degrees latitude, and -115.747 degrees longitude. Trail Creek from a lower point located at 44.279 degrees latitude, and -115.666 degrees longitude to an upper point located at 44.239 degrees latitude, and -115.758 degrees longitude.

(C) South Fork Beaver Creek from a lower point located at 44.295 degrees

latitude, and -115.685 degrees longitude to an upper point located at 44.297 degrees latitude, and -115.732 degrees longitude. Unnamed creek off South Fork Beaver Creek from a lower point located at 44.294 degrees latitude, and -115.687 degrees longitude to an upper point located at 44.283 degrees latitude, and -115.721 degrees longitude.

(D) Beaver Creek from a lower point located at 44.317 degrees latitude, and -115.684 degrees longitude to an upper point located at 44.31 degrees latitude, and -115.741 degrees longitude.

Unnamed creek off Beaver Creek from a lower point located at 44.318 degrees latitude, and -115.686 degrees longitude to an upper point located at 44.336 degrees latitude, and -115.717 degrees longitude.

(E) Habit Creek from a lower point located at 44.33 degrees latitude, and -115.672 degrees longitude to an upper point located at 44.349 degrees latitude, and -115.712 degrees longitude.

(F) Basin Creek from a lower point located at 44.341 degrees latitude, and -115.658 degrees longitude to an upper point located at 44.377 degrees latitude, and -115.701 degrees longitude.

(G) Wild Buck Creek from a lower point located at 44.342 degrees latitude, and -115.657 degrees longitude to an upper point located at 44.389 degrees latitude, and -115.649 degrees longitude.

(H) Deer Creek from a lower point located at 44.396 degrees latitude, and -115.615 degrees longitude to an upper point located at 44.347 degrees latitude, and -115.548 degrees longitude. North Fork Deer Creek from a lower point located at 44.408 degrees latitude, and -115.553 degrees longitude to an upper point located at 44.452 degrees latitude, and -115.544 degrees longitude.

Unnamed creek 1 off Deer Creek from a lower point located at 44.407 degrees latitude, and -115.585 degrees longitude to an upper point located at 44.425 degrees latitude, and -115.586 degrees longitude. Unnamed creek 2 off Deer Creek from a lower point located at 44.402 degrees latitude, and -115.559 degrees longitude to an upper point located at 44.388 degrees latitude, and -115.553 degrees longitude. Unnamed creek 3 off Deer Creek from a lower point located at 44.407 degrees latitude, and -115.542 degrees longitude to an upper point located at 44.422 degrees latitude, and -115.533 degrees longitude.

(I) Goat Creek from a lower point located at 44.398 degrees latitude, and -115.618 degrees longitude to an upper point located at 44.393 degrees latitude, and -115.679 degrees longitude.

(J) Bitter Creek from a lower point located at 44.406 degrees latitude, and -115.617 degrees longitude to an upper point located at 44.421 degrees latitude, and -115.677 degrees longitude.

(K) Stratton Creek from a lower point located at 44.47 degrees latitude, and -115.586 degrees longitude to an upper point located at 44.446 degrees latitude, and -115.63 degrees longitude.

(L) East Fork Deadwood River from a lower point located at 44.492 degrees latitude, and -115.574 degrees longitude to an upper point located at 44.494 degrees latitude, and -115.57 degrees longitude.

(v) Critical Habitat Subunit—Middle Fork Payette River.

(A) Middle Fork Payette River from a lower point located at 44.103 degrees latitude, and -115.999 degrees longitude to an upper point located at 44.551 degrees latitude, and -115.764 degrees longitude. Unnamed creek 1 off Middle Fork Payette River from a lower point located at 44.524 degrees latitude, and -115.774 degrees longitude to an upper point located at 44.552 degrees latitude, and -115.834 degrees longitude. Unnamed creek 2 off Middle Fork Payette River from a lower point located at 44.532 degrees latitude, and -115.772 degrees longitude to an upper point located at 44.534 degrees latitude, and -115.755 degrees longitude. Unnamed creek 3 off Middle Fork Payette River from a lower point located at 44.539 degrees latitude, and -115.77 degrees longitude to an upper point located at 44.541 degrees latitude, and -115.738 degrees longitude.

(B) Lightning Creek from a lower point located at 44.193 degrees latitude, and -115.936 degrees longitude to an upper point located at 44.233 degrees latitude, and -115.766 degrees longitude. Onion Creek from a lower point located at 44.214 degrees latitude, and -115.824 degrees longitude to an upper point located at 44.234 degrees latitude, and -115.775 degrees longitude.

(C) Long Fork Silver Creek from a lower point located at 44.382 degrees latitude, and -115.76 degrees longitude to an upper point located at 44.411 degrees latitude, and -115.679 degrees longitude. Peace Creek from a lower point located at 44.341 degrees latitude, and -115.791 degrees longitude to an upper point located at 44.356 degrees latitude, and -115.733 degrees longitude. Silver Creek from a lower point located at 44.304 degrees latitude, and -115.864 degrees longitude to an upper point located at 44.408 degrees latitude, and -115.749 degrees longitude. Ucon Creek from a lower point located at 44.371 degrees latitude,

and -115.766 degrees longitude to an upper point located at 44.379 degrees latitude, and -115.72 degrees longitude. Valley Creek from a lower point located at 44.333 degrees latitude, and -115.776 degrees longitude to an upper point located at 44.28 degrees latitude, and -115.742 degrees longitude.

(D) Bull Creek from a lower point located at 44.422 degrees latitude, and -115.813 degrees longitude to an upper point located at 44.491 degrees latitude, and -115.614 degrees longitude. Oxtail Creek from a lower point located at 44.459 degrees latitude, and -115.667 degrees longitude to an upper point located at 44.439 degrees latitude, and -115.638 degrees longitude.

Sixteen - to - one Creek from a lower point located at 44.426 degrees latitude, and -115.801 degrees longitude to an upper point located at 44.467 degrees latitude, and -115.754 degrees longitude.

(vi) Critical Habitat Subunit—Weiser River.

(A) Little Weiser River from a lower point located at 44.553 degrees latitude, and -116.693 degrees longitude to an upper point located at 44.637 degrees latitude, and -116.174 degrees longitude. Weiser River from a lower point located at 44.553 degrees latitude, and -116.693 degrees longitude to an upper point located at 44.847 degrees latitude, and -116.379 degrees longitude.

(B) Anderson Creek from a lower point located at 44.527 degrees latitude, and -116.242 degrees longitude to an upper point located at 44.605 degrees latitude, and -116.186 degrees longitude.

(C) Sheep Creek from a lower point located at 44.542 degrees latitude, and -116.221 degrees longitude to an upper point located at 44.504 degrees latitude, and -116.174 degrees longitude.

(D) East Pine Creek from a lower point located at 44.652 degrees latitude, and -116.815 degrees longitude to an upper point located at 44.772 degrees latitude, and -116.769 degrees longitude.

(E) Rush Creek from a lower point located at 44.567 degrees latitude, and -116.672 degrees longitude to an upper point located at 44.789 degrees latitude, and -116.747 degrees longitude.

(F) Middle Fork Weiser River from a lower point located at 44.668 degrees latitude, and -116.483 degrees longitude to an upper point located at 44.771 degrees latitude, and -116.214 degrees longitude.

(G) Disappointment Creek from a lower point located at 44.825 degrees latitude, and -116.657 degrees longitude to an upper point located at

44.83 degrees latitude, and -116.706 degrees longitude. Grouse Creek from a lower point located at 44.826 degrees latitude, and -116.656 degrees longitude to an upper point located at 44.835 degrees latitude, and -116.707 degrees longitude. Hornet Creek from a lower point located at 44.728 degrees latitude, and -116.448 degrees longitude to an upper point located at 44.797 degrees latitude, and -116.732 degrees longitude. Mill Creek from a lower point located at 44.837 degrees latitude, and -116.619 degrees longitude to an upper point located at 44.854 degrees latitude, and -116.634 degrees longitude. North Creek from a lower point located at 44.814 degrees latitude, and -116.692 degrees longitude to an upper point located at 44.818 degrees latitude, and -116.72 degrees longitude. Olive Creek from a lower point located at 44.836 degrees latitude, and -116.627 degrees longitude to an upper point located at 44.787 degrees latitude, and -116.693 degrees longitude. Placer Creek from a lower point located at 44.808 degrees latitude, and -116.679 degrees longitude to an upper point located at 44.806 degrees latitude, and -116.737 degrees longitude. Unnamed creek 1 off Olive Creek from a lower point located at 44.812 degrees latitude, and -116.643 degrees longitude to an upper point located at 44.791 degrees latitude, and -116.648 degrees longitude. Unnamed creek 2 off Olive Creek from a lower point located at 44.801 degrees latitude, and -116.66 degrees longitude to an upper point located at 44.787 degrees latitude, and -116.665 degrees longitude. West Mill Creek from a lower point located at 44.854 degrees latitude, and -116.634 degrees longitude to an upper point located at 44.853 degrees latitude, and -116.686 degrees longitude.

(H) West Fork Weiser River from a lower point located at 44.808 degrees latitude, and -116.443 degrees longitude to an upper point located at 45.008 degrees latitude, and -116.509 degrees longitude.

(I) Lost Creek from a lower point located at 44.91 degrees latitude, and -116.495 degrees longitude to an upper point located at 45.091 degrees latitude, and -116.503 degrees longitude. Lost Valley Reservoir centered at 44.966 degrees latitude, and -116.462 degrees longitude.

(J) Dewey Creek from a lower point located at 44.807 degrees latitude, and -116.277 degrees longitude to an upper point located at 44.772 degrees latitude, and -116.275 degrees longitude. East Fork Weiser River from a lower point located at 44.847 degrees latitude, and

-116.379 degrees longitude to an upper point located at 44.729 degrees latitude, and -116.278 degrees longitude.

(vii) Critical Habitat Subunit—Upper South Fork Payette River.

(A) Baron Creek from a lower point located at 44.137 degrees latitude, and -115.148 degrees longitude to an upper point located at 44.094 degrees latitude, and -115.027 degrees longitude. Deadwood River from a lower point located at 44.079 degrees latitude, and -115.657 degrees longitude to an upper point located at 44.294 degrees latitude, and -115.645 degrees longitude. North Fork Baron Creek from a lower point located at 44.131 degrees latitude, and -115.101 degrees longitude to an upper point located at 44.145 degrees latitude, and -115.077 degrees longitude. South Fork Payette River from a lower point located at 44.103 degrees latitude, and -115.999 degrees longitude to an upper point located at 43.999 degrees latitude, and -115.039 degrees longitude.

(B) Scott Creek from a lower point located at 44.223 degrees latitude, and -115.648 degrees longitude to an upper point located at 44.191 degrees latitude, and -115.761 degrees longitude. Smith Creek from a lower point located at 44.214 degrees latitude, and -115.709 degrees longitude to an upper point located at 44.2 degrees latitude, and -115.757 degrees longitude. South Fork Scott Creek from a lower point located at 44.222 degrees latitude, and -115.66 degrees longitude to an upper point located at 44.187 degrees latitude, and -115.702 degrees longitude.

(C) Ninemile Creek from a lower point located at 44.231 degrees latitude, and -115.647 degrees longitude to an upper point located at 44.232 degrees latitude, and -115.747 degrees longitude.

(D) No Man Creek from a lower point located at 44.247 degrees latitude, and -115.629 degrees longitude to an upper point located at 44.247 degrees latitude, and -115.59 degrees longitude.

Unnamed creek 1 off Deadwood River from a lower point located at 44.24 degrees latitude, and -115.632 degrees longitude to an upper point located at 44.226 degrees latitude, and -115.616 degrees longitude. Unnamed creek 2 off Deadwood River from a lower point located at 44.276 degrees latitude, and -115.635 degrees longitude to an upper point located at 44.269 degrees latitude, and -115.653 degrees longitude.

(E) North Fork Whitehawk Creek from a lower point located at 44.277 degrees latitude, and -115.584 degrees longitude to an upper point located at 44.291 degrees latitude, and -115.538 degrees longitude. Whitehawk Creek from a lower point located at 44.275 degrees latitude, and -115.635 degrees

longitude to an upper point located at 44.261 degrees latitude, and – 115.555 degrees longitude.

(F) East Fork Warm Springs Creek from a lower point located at 44.294 degrees latitude, and – 115.621 degrees longitude to an upper point located at 44.317 degrees latitude, and – 115.537 degrees longitude. Middle Fork Warm Springs Creek from a lower point located at 44.326 degrees latitude, and – 115.598 degrees longitude to an upper point located at 44.351 degrees latitude, and – 115.565 degrees longitude. Unnamed creek off East Fork Warm Springs Creek from a lower point located at 44.312 degrees latitude, and – 115.577 degrees longitude to an upper point located at 44.324 degrees latitude, and – 115.563 degrees longitude. Unnamed creek off Middle Fork Warm Springs Creek from a lower point located at 44.332 degrees latitude, and – 115.579 degrees longitude to an upper point located at 44.324 degrees latitude, and – 115.54 degrees longitude. Warm Springs Creek from a lower point located at 44.279 degrees latitude, and – 115.63 degrees longitude to an upper point located at 44.367 degrees latitude, and – 115.579 degrees longitude.

(G) Wilson Creek from a lower point located at 44.292 degrees latitude, and – 115.641 degrees longitude to an upper point located at 44.366 degrees latitude, and – 115.564 degrees longitude.

(H) Clear Creek from a lower point located at 44.082 degrees latitude, and – 115.61 degrees longitude to an upper point located at 44.229 degrees latitude, and – 115.408 degrees longitude. Long Creek from a lower point located at 44.129 degrees latitude, and – 115.579 degrees longitude to an upper point located at 44.153 degrees latitude, and – 115.532 degrees longitude. South Fork Clear Creek from a lower point located at 44.232 degrees latitude, and – 115.439 degrees longitude to an upper point located at 44.183 degrees latitude, and – 115.483 degrees longitude. Unnamed creek off Long Creek from a lower point located at 44.148 degrees latitude, and – 115.546 degrees longitude to an upper point located at 44.137 degrees latitude, and – 115.534 degrees longitude.

(I) Kettle Creek from a lower point located at 44.107 degrees latitude, and – 115.443 degrees longitude to an upper point located at 44.147 degrees latitude, and – 115.442 degrees longitude.

(J) East Fork Eightmile Creek from a lower point located at 44.133 degrees latitude, and – 115.406 degrees longitude to an upper point located at 44.2 degrees latitude, and – 115.354 degrees longitude. Eightmile Creek from a lower point located at 44.118 degrees

latitude, and – 115.412 degrees longitude to an upper point located at 44.251 degrees latitude, and – 115.399 degrees longitude. Unnamed creek 1 off Eightmile Creek from a lower point located at 44.153 degrees latitude, and – 115.414 degrees longitude to an upper point located at 44.162 degrees latitude, and – 115.451 degrees longitude. Unnamed creek 2 off Eightmile Creek from a lower point located at 44.173 degrees latitude, and – 115.4 degrees longitude to an upper point located at 44.195 degrees latitude, and – 115.419 degrees longitude. Unnamed creek 3 off Eightmile Creek from a lower point located at 44.174 degrees latitude, and – 115.397 degrees longitude to an upper point located at 44.198 degrees latitude, and – 115.418 degrees longitude.

(K) Tenmile Creek from a lower point located at 44.12 degrees latitude, and – 115.385 degrees longitude to an upper point located at 44.087 degrees latitude, and – 115.236 degrees longitude. Unnamed creek 1 off Tenmile Creek from a lower point located at 44.062 degrees latitude, and – 115.322 degrees longitude to an upper point located at 44.08 degrees latitude, and – 115.303 degrees longitude. Unnamed creek 2 off Tenmile Creek from a lower point located at 44.062 degrees latitude, and – 115.304 degrees longitude to an upper point located at 44.041 degrees latitude, and – 115.298 degrees longitude. Unnamed creek 3 off Tenmile Creek from a lower point located at 44.069 degrees latitude, and – 115.286 degrees longitude to an upper point located at 44.046 degrees latitude, and – 115.287 degrees longitude.

(L) Chapman Creek from a lower point located at 44.137 degrees latitude, and – 115.314 degrees longitude to an upper point located at 44.097 degrees latitude, and – 115.289 degrees longitude.

(M) Gates Creek from a lower point located at 44.292 degrees latitude, and – 115.305 degrees longitude to an upper point located at 44.348 degrees latitude, and – 115.327 degrees longitude. Warm Spring Creek from a lower point located at 44.144 degrees latitude, and – 115.303 degrees longitude to an upper point located at 44.292 degrees latitude, and – 115.305 degrees longitude.

(N) Canyon Creek from a lower point located at 44.172 degrees latitude, and – 115.243 degrees longitude to an upper point located at 44.303 degrees latitude, and – 115.23 degrees longitude. North Fork Canyon Creek from a lower point located at 44.25 degrees latitude, and – 115.214 degrees longitude to an upper point located at 44.261 degrees latitude, and – 115.198 degrees longitude. South Fork Canyon Creek from a lower point located at 44.237 degrees latitude, and

– 115.213 degrees longitude to an upper point located at 44.226 degrees latitude, and – 115.191 degrees longitude.

Unnamed creek off North Fork Canyon Creek from a lower point located at 44.261 degrees latitude, and – 115.198 degrees longitude to an upper point located at 44.241 degrees latitude, and – 115.165 degrees longitude.

(O) Wapiti Creek from a lower point located at 44.162 degrees latitude, and – 115.19 degrees longitude to an upper point located at 44.117 degrees latitude, and – 115.201 degrees longitude.

(P) Trail Creek from a lower point located at 44.146 degrees latitude, and – 115.153 degrees longitude to an upper point located at 44.164 degrees latitude, and – 115.092 degrees longitude.

(viii) Critical Habitat Subunit—North Fork Payette River.

(A) Foolhen Creek from a lower point located at 44.687 degrees latitude, and – 115.878 degrees longitude to an upper point located at 44.739 degrees latitude, and – 115.842 degrees longitude. Gold Fork River from a lower point located at 44.697 degrees latitude, and – 116.053 degrees longitude to an upper point located at 44.674 degrees latitude, and – 115.896 degrees longitude. Lodgepole Creek from a lower point located at 44.69 degrees latitude, and – 115.866 degrees longitude to an upper point located at 44.728 degrees latitude, and – 115.843 degrees longitude. North Fork Gold Fork River from a lower point located at 44.674 degrees latitude, and – 115.896 degrees longitude to an upper point located at 44.756 degrees latitude, and – 115.8 degrees longitude. South Fork Gold Fork River from a lower point located at 44.674 degrees latitude, and – 115.896 degrees longitude to an upper point located at 44.653 degrees latitude, and – 115.839 degrees longitude. Spruce Creek from a lower point located at 44.689 degrees latitude, and – 115.87 degrees longitude to an upper point located at 44.672 degrees latitude, and – 115.848 degrees longitude. Unnamed creek 1 off North Fork Gold Fork River from a lower point located at 44.704 degrees latitude, and – 115.833 degrees longitude to an upper point located at 44.726 degrees latitude, and – 115.838 degrees longitude. Unnamed creek 2 off North Fork Gold Fork River from a lower point located at 44.704 degrees latitude, and – 115.824 degrees longitude to an upper point located at 44.679 degrees latitude, and – 115.827 degrees longitude. Unnamed creek 3 off North Fork Gold Fork River from a lower point located at 44.706 degrees latitude, and – 115.819 degrees longitude to an upper point located at 44.679 degrees latitude, and – 115.811 degrees longitude. Unnamed creek 4 off

North Fork Gold Fork River from a lower point located at 44.708 degrees latitude, and – 115.817 degrees longitude to an upper point located at 44.747 degrees latitude, and – 115.811 degrees longitude.

(B) Kennally Creek from a lower point located at 44.683 degrees latitude, and – 115.974 degrees longitude to an upper point located at 44.781 degrees latitude, and – 115.863 degrees longitude. Rapid Creek from a lower point located at 44.749 degrees latitude, and – 115.957 degrees longitude to an upper point located at 44.861 degrees latitude, and – 115.904 degrees longitude.

(C) Cascade Reservoir centered at 44.599 degrees latitude, and – 116.097 degrees longitude.

(D) Lake Fork from a lower point located at 44.75 degrees latitude, and – 116.096 degrees longitude to an upper point located at 44.917 degrees latitude, and – 115.928 degrees longitude. Little Payette Lake centered at 44.916 degrees latitude, and – 116.033 degrees longitude. North Fork Lake Fork from a lower point located at 44.923 degrees latitude, and – 115.945 degrees longitude to an upper point located at 44.998 degrees latitude, and – 115.921 degrees longitude. South Fork Lake Fork from a lower point located at 44.917 degrees latitude, and – 115.928 degrees longitude to an upper point located at 44.875 degrees latitude, and – 115.902 degrees longitude.

(ix) Critical Habitat Subunit—Squaw Creek.

(A) Poison Creek from a lower point located at 44.479 degrees latitude, and – 116.185 degrees longitude to an upper point located at 44.491 degrees latitude, and – 116.162 degrees longitude. Pole Creek from a lower point located at 44.471 degrees latitude, and – 116.218 degrees longitude to an upper point

located at 44.494 degrees latitude, and – 116.202 degrees longitude. Squaw Creek from a lower point located at 43.936 degrees latitude, and – 116.366 degrees longitude to an upper point located at 44.436 degrees latitude, and – 116.152 degrees longitude. Unnamed creek 1 off Squaw Creek from a lower point located at 44.47 degrees latitude, and – 116.219 degrees longitude to an upper point located at 44.455 degrees latitude, and – 116.199 degrees longitude. Unnamed creek 2 off Squaw Creek from a lower point located at 44.479 degrees latitude, and – 116.193 degrees longitude to an upper point located at 44.46 degrees latitude, and – 116.165 degrees longitude. Unnamed creek 3 off Squaw Creek from a lower point located at 44.476 degrees latitude, and – 116.19 degrees longitude to an upper point located at 44.457 degrees latitude, and – 116.174 degrees longitude.

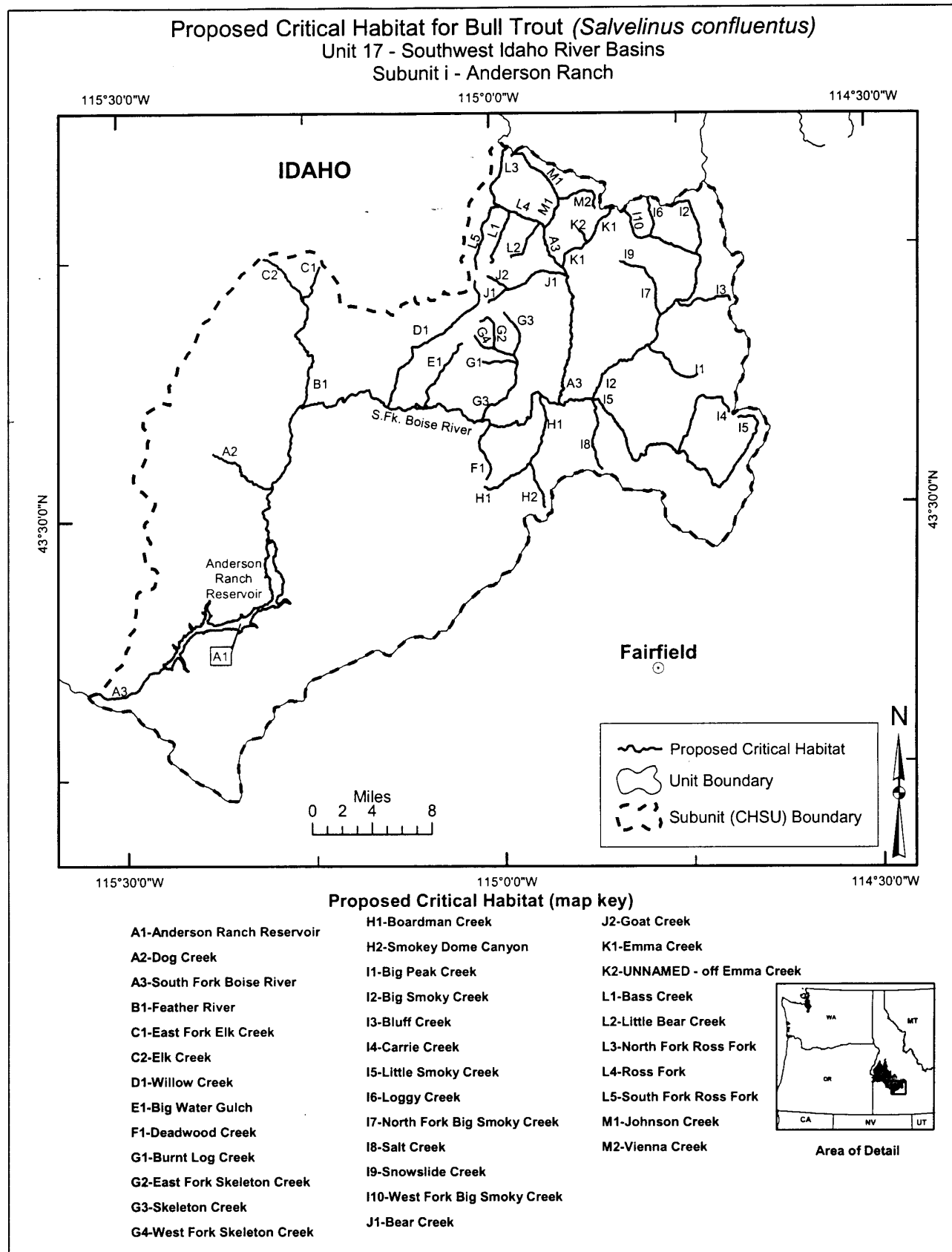
(B) Antelope Creek from a lower point located at 44.375 degrees latitude, and – 116.197 degrees longitude to an upper point located at 44.4 degrees latitude, and – 116.168 degrees longitude. Renwick Creek from a lower point located at 44.367 degrees latitude, and – 116.195 degrees longitude to an upper point located at 44.397 degrees latitude, and – 116.139 degrees longitude. Second Fork Squaw Creek from a lower point located at 44.309 degrees latitude, and – 116.31 degrees longitude to an upper point located at 44.404 degrees latitude, and – 116.191 degrees longitude. Third Fork Squaw Creek from a lower point located at 44.373 degrees latitude, and – 116.3 degrees longitude to an upper point located at 44.453 degrees latitude, and – 116.156 degrees longitude. Unnamed creek 1 off Third Fork Squaw Creek from a lower point

located at 44.424 degrees latitude, and – 116.21 degrees longitude to an upper point located at 44.42 degrees latitude, and – 116.148 degrees longitude. Unnamed creek 2 off Third Fork Squaw Creek from a lower point located at 44.416 degrees latitude, and – 116.201 degrees longitude to an upper point located at 44.426 degrees latitude, and – 116.16 degrees longitude. Unnamed creek 3 off Third Fork Squaw Creek from a lower point located at 44.415 degrees latitude, and – 116.19 degrees longitude to an upper point located at 44.421 degrees latitude, and – 116.171 degrees longitude. Unnamed creek 4 off Third Fork Squaw Creek from a lower point located at 44.434 degrees latitude, and – 116.203 degrees longitude to an upper point located at 44.433 degrees latitude, and – 116.168 degrees longitude.

(C) Joes Creek from a lower point located at 44.335 degrees latitude, and – 116.176 degrees longitude to an upper point located at 44.372 degrees latitude, and – 116.147 degrees longitude. Sage Hen Creek from a lower point located at 44.351 degrees latitude, and – 116.209 degrees longitude to an upper point located at 44.373 degrees latitude, and – 116.133 degrees longitude. Sage Hen Reservoir centered at 44.329 degrees latitude, and – 116.183 degrees longitude. Unnamed creek Into Sage Hen Reservoir from a lower point located at 44.332 degrees latitude, and – 116.174 degrees longitude to an upper point located at 44.317 degrees latitude, and – 116.161 degrees longitude.

**Note:** Maps follow for Unit 17, Subunit i; Subunit ii; Subunit iii; Subunit iv; Subunit v; Subunit vi; Subunit vii; Subunit viii; and Subunit ix.

**BILLING CODE 4310–55–P**

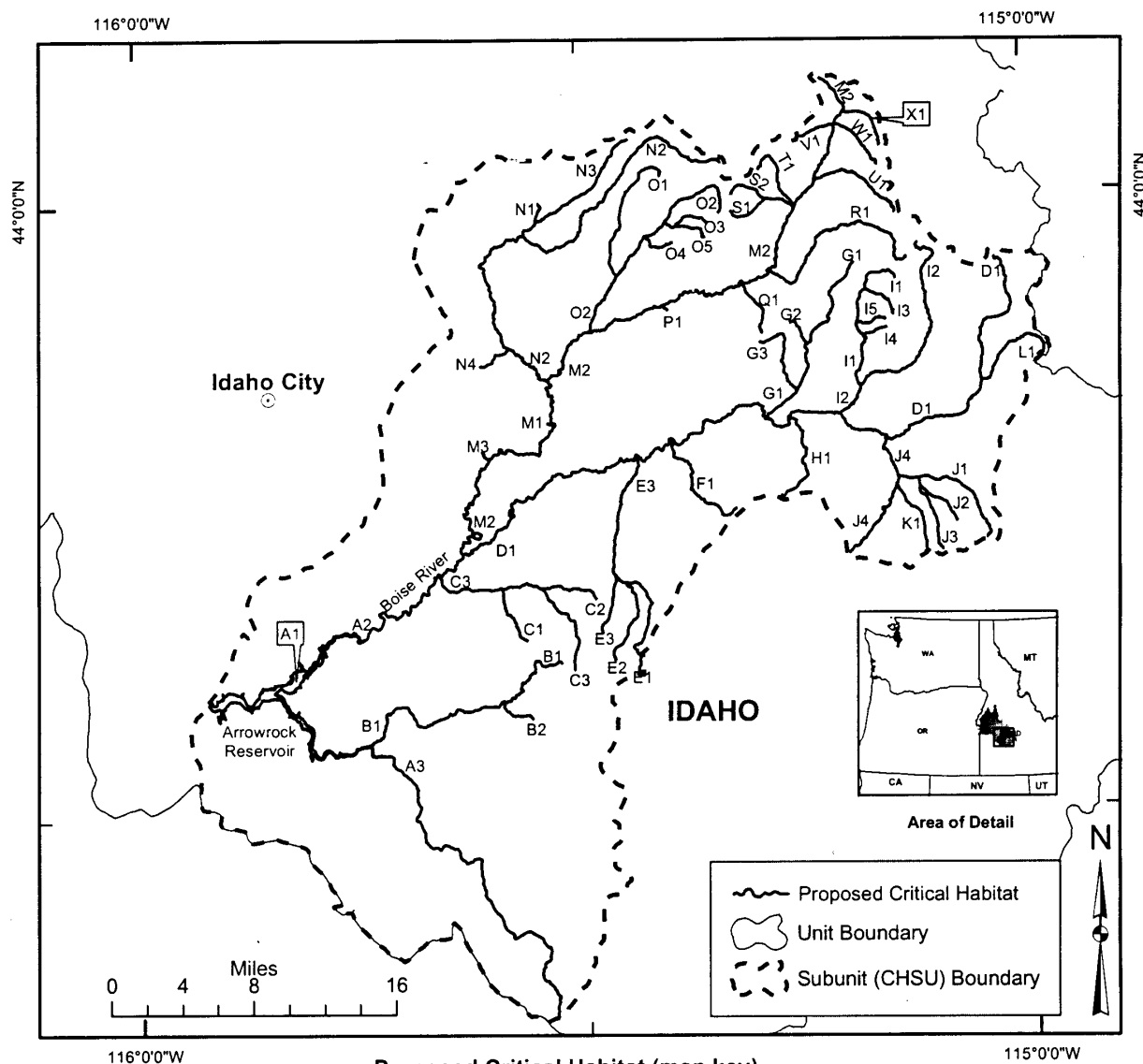


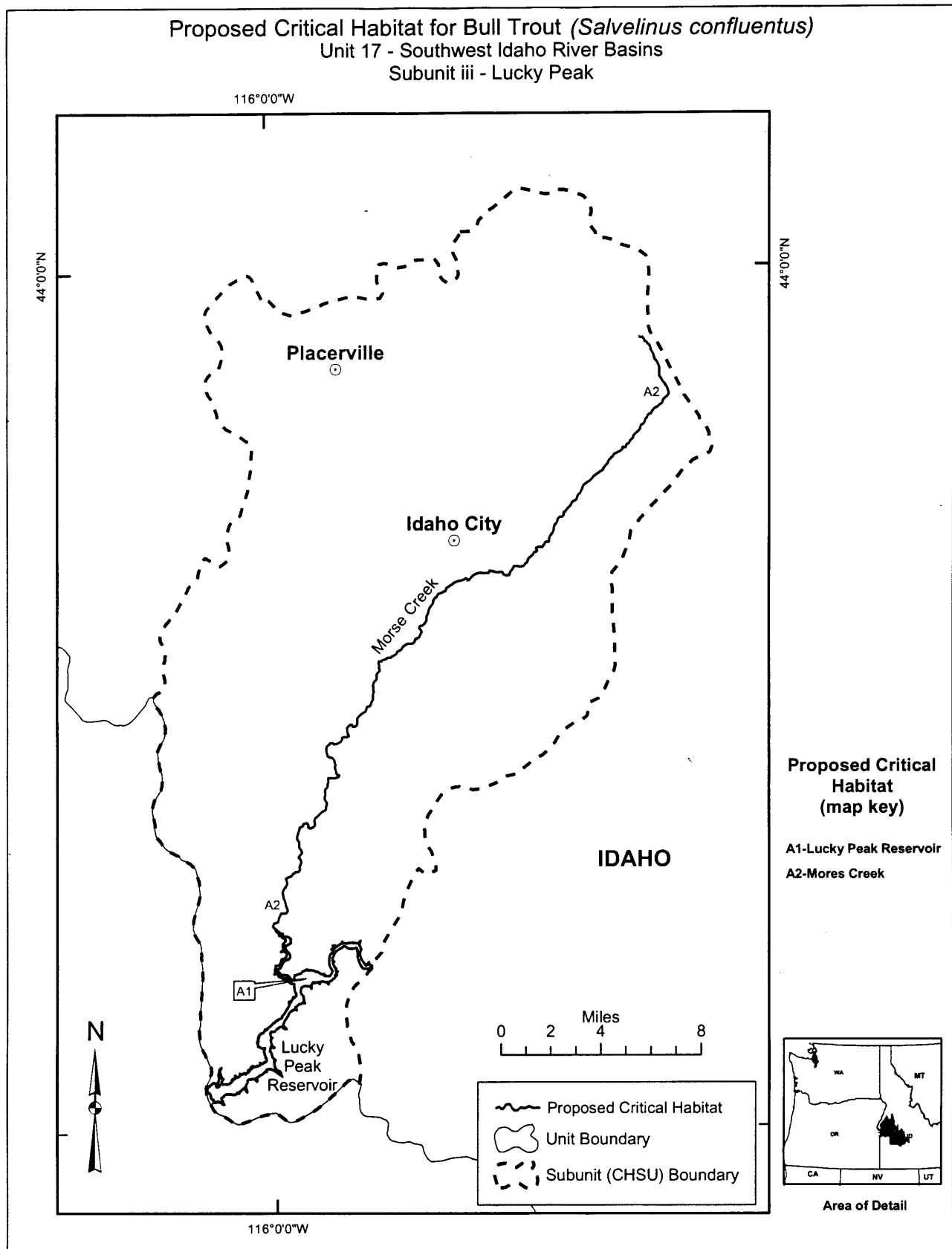


Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

## Unit 17 - Southwest Idaho River Basins

## Subunit ii - Arrowrock





**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 17 - Southwest Idaho River Basins**  
**Subunit iv - Deadwood River**

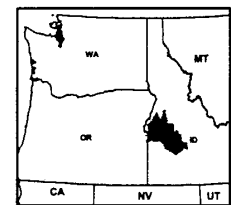
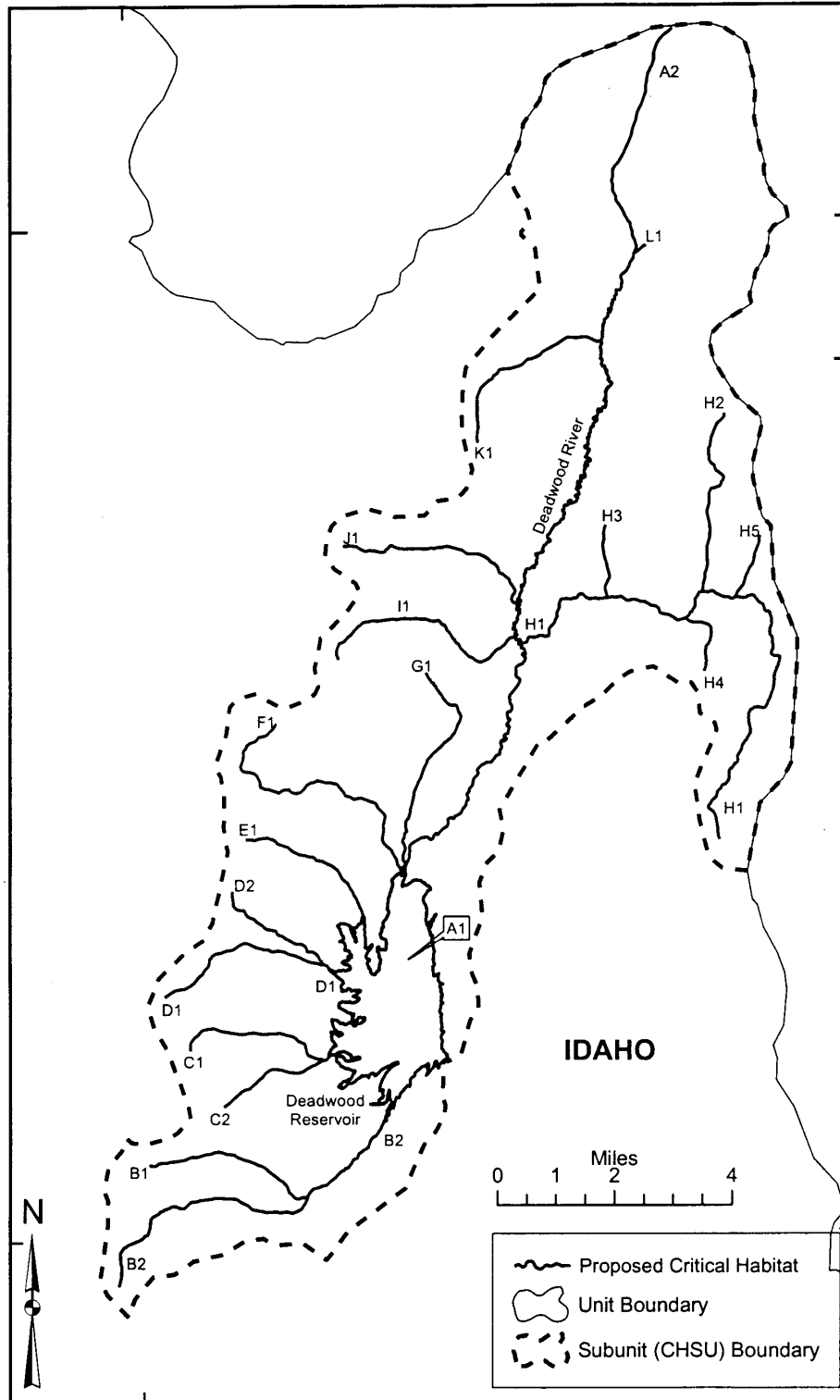
115°30'0"W

44°30'0"N

44°30'0"N  
115°30'0"W

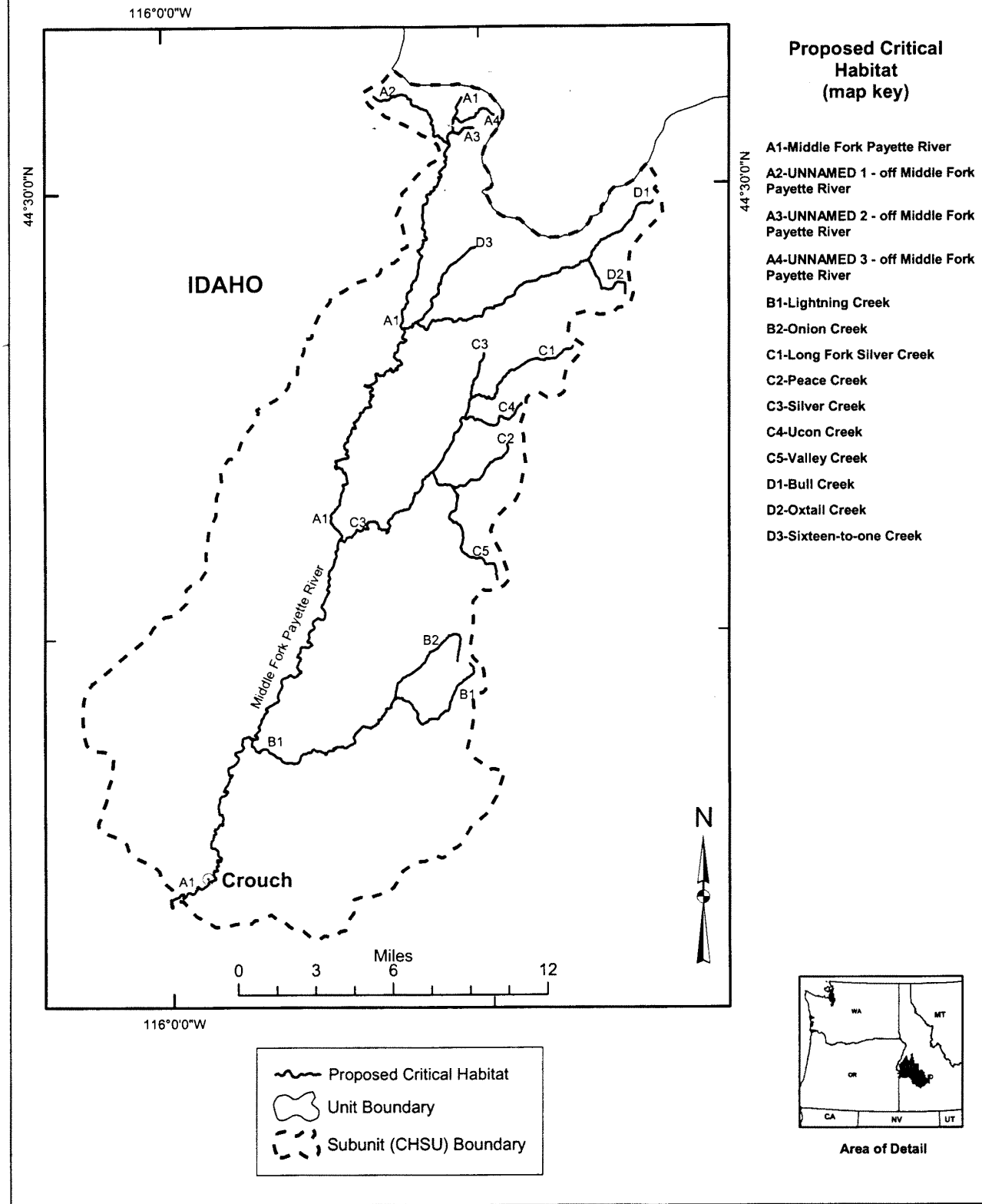
**Proposed Critical  
Habitat  
(map key)**

- A1-Deadwood Reservoir
- A2-Deadwood River
- B1-Daisy Creek
- B2-Trail Creek
- C1-South Fork Beaver Creek
- C2-UNNAMED - off South Fork Beaver Creek
- D1-Beaver Creek
- D2-UNNAMED - off Beaver Creek
- E1-Habit Creek
- F1-Basin Creek
- G1-Wild Buck Creek
- H1-Deer Creek
- H2-North Fork Deer Creek
- H3-UNNAMED 1 - off Deer Creek
- H4-UNNAMED 2 - off Deer Creek
- H5-UNNAMED 3 - off Deer Creek
- I1-Goat Creek
- J1-Bitter Creek
- K1-Stratton Creek
- L1-East Fork Deadwood River

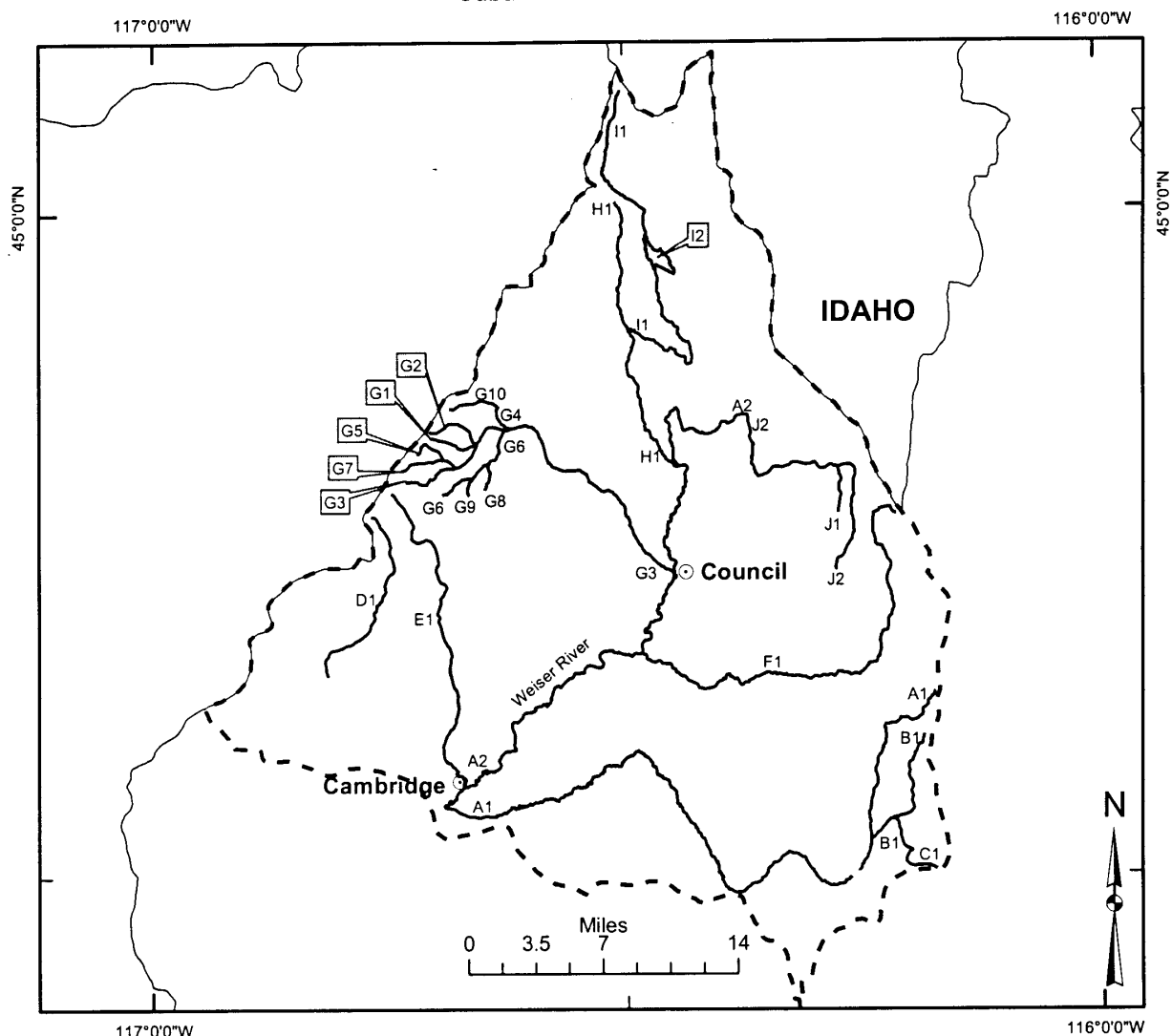


Area of Detail

**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 17 - Southwest Idaho River Basins**  
**Subunit v - Middle Fork Payette River**



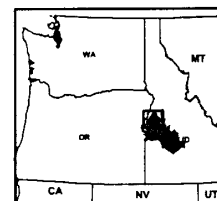
**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 17 - Southwest Idaho River Basins**  
**Subunit vi - Weiser River**



**Proposed Critical Habitat (map key)**

A1-Little Weiser River  
 A2-Weiser River  
 B1-Anderson Creek  
 C1-Sheep Creek  
 D1-East Pine Creek  
 E1-Rush Creek  
 F1-Middle Fork Weiser River  
 G1-Disappointment Creek  
 G2-Grouse Creek  
 G3-Hornet Creek  
 G4-Mill Creek

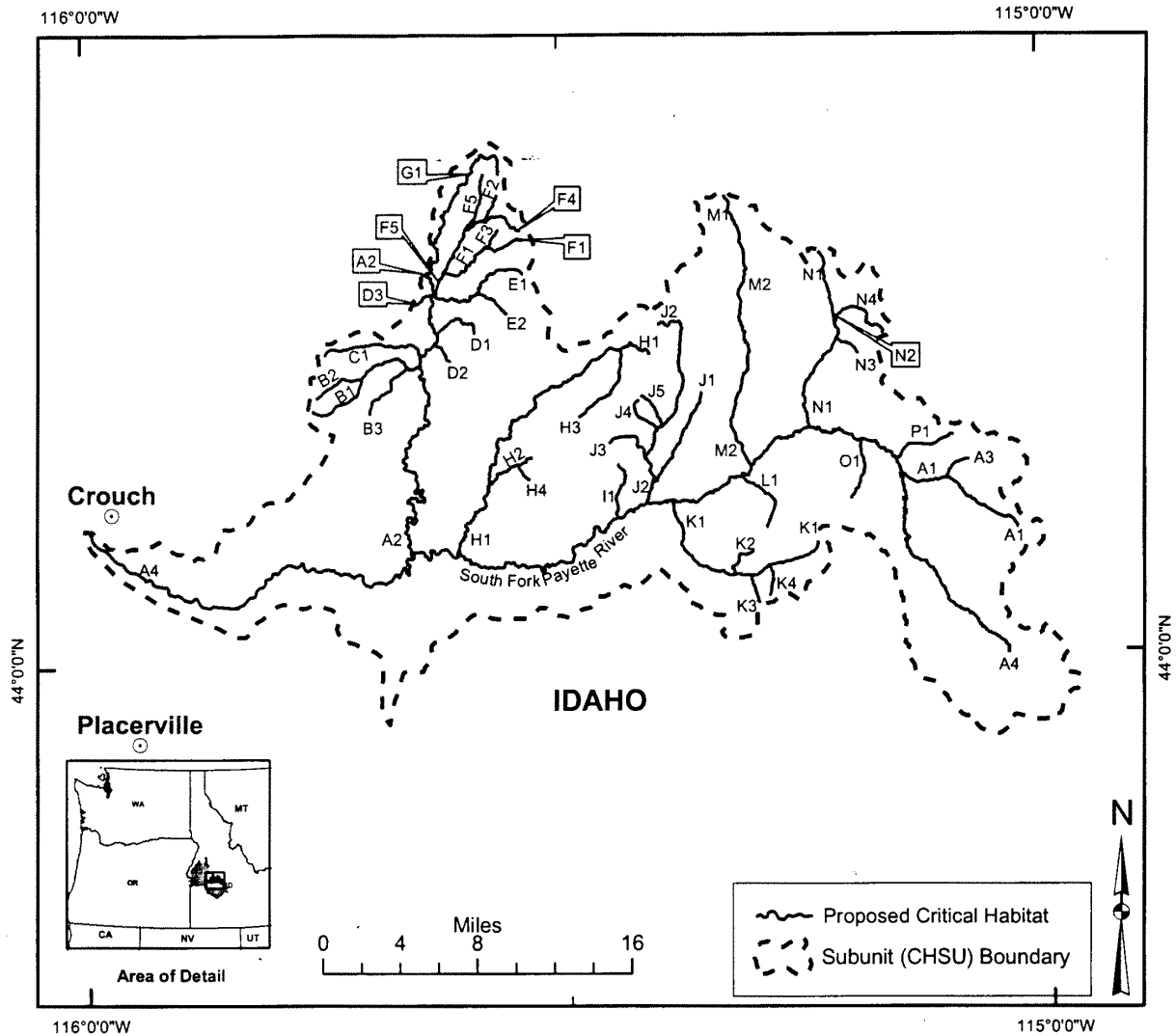
G5-North Creek  
 G6-Olive Creek  
 G7-Placer Creek  
 G8-UNNAMED 1 - off Olive Creek  
 G9-UNNAMED 2 - off Olive Creek  
 G10-West Mill Creek  
 H1-West Fork Weiser River  
 I1-Lost Creek  
 I2-Lost Valley Reservoir  
 J1-Dewey Creek  
 J2-East Fork Weiser River



**Area of Detail**

- Proposed Critical Habitat
- Unit Boundary
- Subunit (CHSU) Boundary

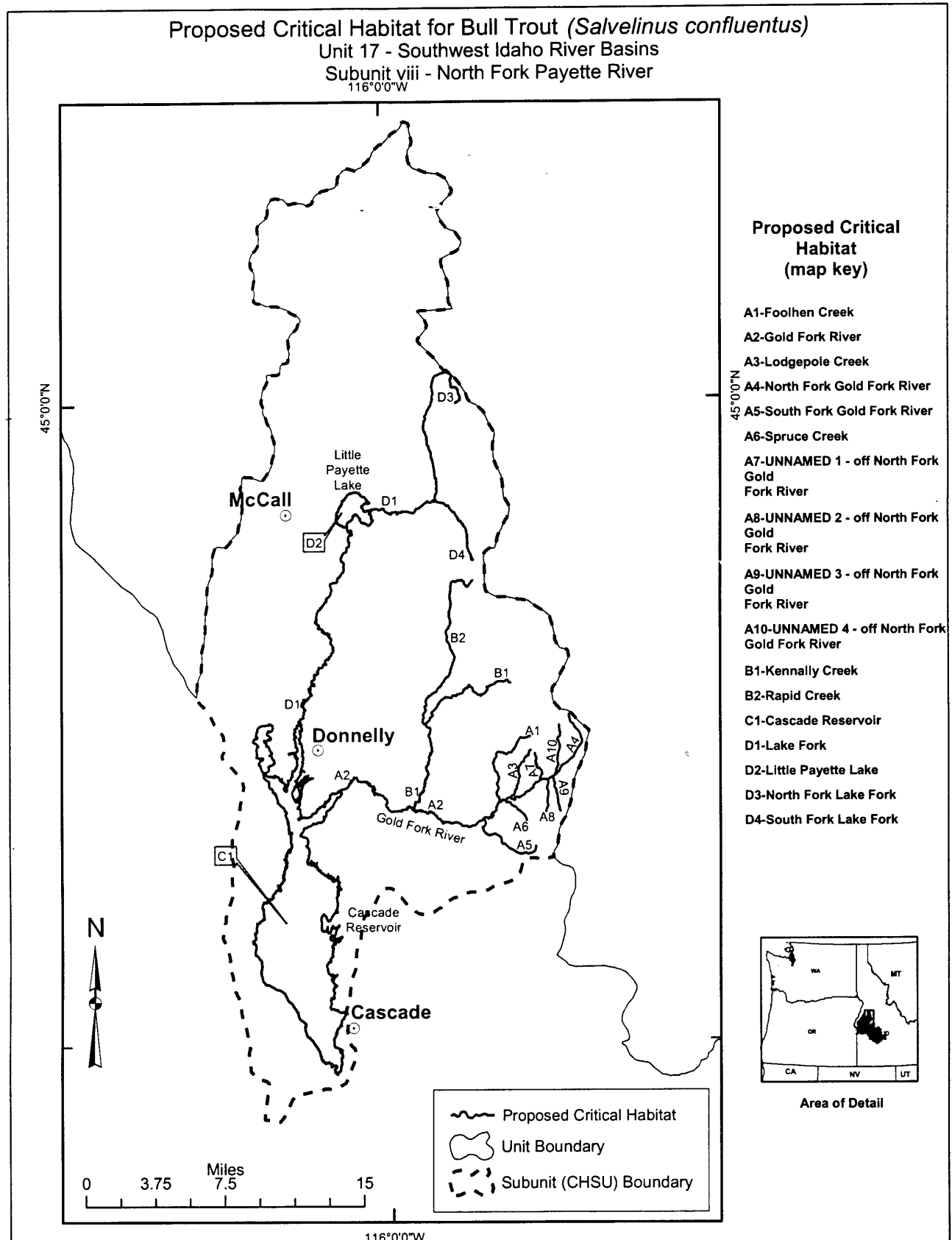
**Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)**  
**Unit 17 - Southwest Idaho River Basins**  
**Subunit vii - Upper South Fork Payette River**

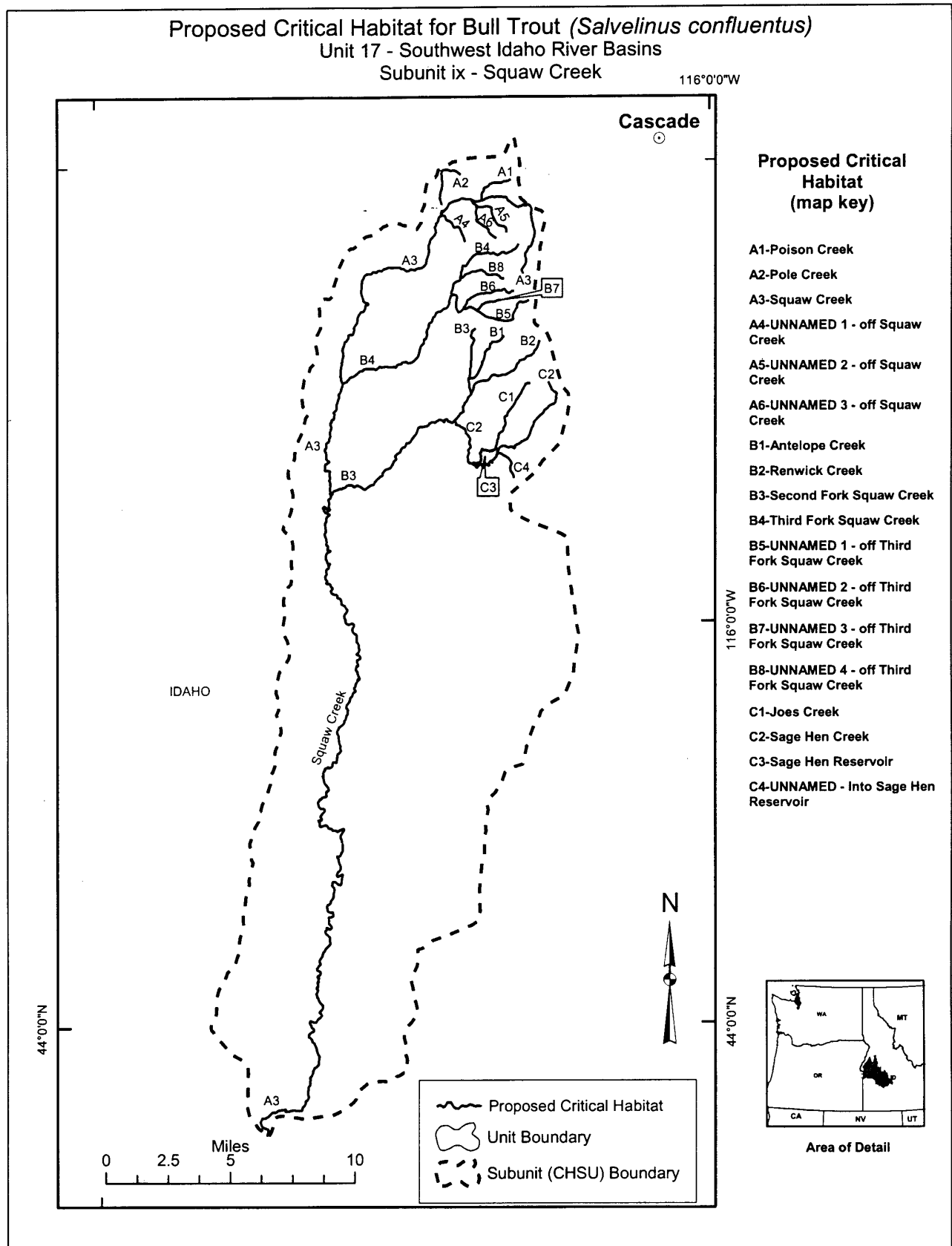


**Proposed Critical Habitat (map key)**

A1-Baron Creek	E2-Whitehawk Creek	I1-Kettle Creek	M1-Gates Creek
A2-Deadwood River	F1-East Fork Warm Springs Creek	J1-East Fork Eightmile Creek	M2-Warm Spring Creek
A3-North Fork Baron Creek	F2-Middle Fork Warm Springs Creek	J2-Eightmile Creek	N1-Canyon Creek
A4-South Fork Payette River	F3-UNNAMED - off East Fork Warm Springs Creek	J3-UNNAMED 1 - off Eightmile Creek	N2-North Fork Canyon Creek
B1-Scott Creek	F4-UNNAMED - off Middle Fork Warm Springs Creek	J4-UNNAMED 2 - off Eightmile Creek	N3-South Fork Canyon Creek
B2-Smith Creek	F5-Warm Springs Creek	J5-UNNAMED 3 - off Eightmile Creek	N4-UNNAMED - off North Fork Canyon Creek
B3-South Fork Scott Creek	G1-Wilson Creek	K1-Tenmile Creek	O1-Wapiti Creek
C1-Ninemile Creek	H1-Clear Creek	K2-UNNAMED 1 - off Tenmile Creek	P1-Trall Creek
D1-No Man Creek	H2-Long Creek	K3-UNNAMED 2 - off Tenmile Creek	
D2-UNNAMED 1 - off Deadwood River	H3-South Fork Clear Creek	K4-UNNAMED 3 - off Tenmile Creek	
D3-UNNAMED 2 - off Deadwood River	H4-UNNAMED - off Long Creek	L1-Chapman Creek	
E1-North Fork Whitehawk Creek			

Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)  
 Unit 17 - Southwest Idaho River Basins  
 Subunit viii - North Fork Payette River  
 116°0'0"W







## (2) Unit 18—Little Lost River Basin.

(i) Firebox Creek from a lower point located at 44.443 degrees latitude, and –113.38 degrees longitude to an upper point located at 44.434 degrees latitude, and –113.362 degrees longitude. Little Lost River from a lower point located at 43.883 degrees latitude, and –113.096 degrees longitude to an upper point located at 44.452 degrees latitude, and –113.375 degrees longitude. Right Fork Little Lost River from a lower point located at 44.446 degrees latitude, and –113.378 degrees longitude to an upper point located at 44.45 degrees latitude, and –113.37 degrees longitude.

(ii) Badger Creek from a lower point located at 44.059 degrees latitude, and –113.232 degrees longitude to an upper point located at 44.118 degrees latitude, and –113.131 degrees longitude. Bunting Canyon Creek from a lower point located at 44.11 degrees latitude, and –113.137 degrees longitude to an upper point located at 44.107 degrees latitude, and –113.098 degrees longitude.

(iii) Unnamed creek—off Williams Creek from a lower point located at 44.135 degrees latitude, and –113.196 degrees longitude to an upper point located at 44.13 degrees latitude, and –113.175 degrees longitude. Williams Creek from a lower point located at 44.122 degrees latitude, and –113.237 degrees longitude to an upper point located at 44.135 degrees latitude, and –113.196 degrees longitude.

(iv) Big Creek from a lower point located at 44.063 degrees latitude, and –113.429 degrees longitude to an upper point located at 44.062 degrees latitude, and –113.503 degrees longitude. Wet

Creek from a lower point located at 44.14 degrees latitude, and –113.244 degrees longitude to an upper point located at 44.027 degrees latitude, and –113.473 degrees longitude.

(v) Warm Creek from a lower point located at 44.306 degrees latitude, and –113.337 degrees longitude to an upper point located at 44.31 degrees latitude, and –113.302 degrees longitude.

(vi) North Fork Squaw Creek from a lower point located at 44.356 degrees latitude, and –113.329 degrees longitude to an upper point located at 44.38 degrees latitude, and –113.329 degrees longitude. Squaw Creek from a lower point located at 44.334 degrees latitude, and –113.356 degrees longitude to an upper point located at 44.375 degrees latitude, and –113.304 degrees longitude. Unnamed creek off Squaw Creek from a lower point located at 44.359 degrees latitude, and –113.325 degrees longitude to an upper point located at 44.36 degrees latitude, and –113.314 degrees longitude.

(vii) Mill Creek from a lower point located at 44.357 degrees latitude, and –113.374 degrees longitude to an upper point located at 44.387 degrees latitude, and –113.344 degrees longitude.

(viii) Hawley Creek from a lower point located at 44.379 degrees latitude, and –113.403 degrees longitude to an upper point located at 44.37 degrees latitude, and –113.425 degrees longitude. Iron Creek from a lower point located at 44.379 degrees latitude, and –113.4 degrees longitude to an upper point located at 44.387 degrees latitude, and –113.434 degrees longitude.

Jackson Creek from a lower point located at 44.38 degrees latitude, and

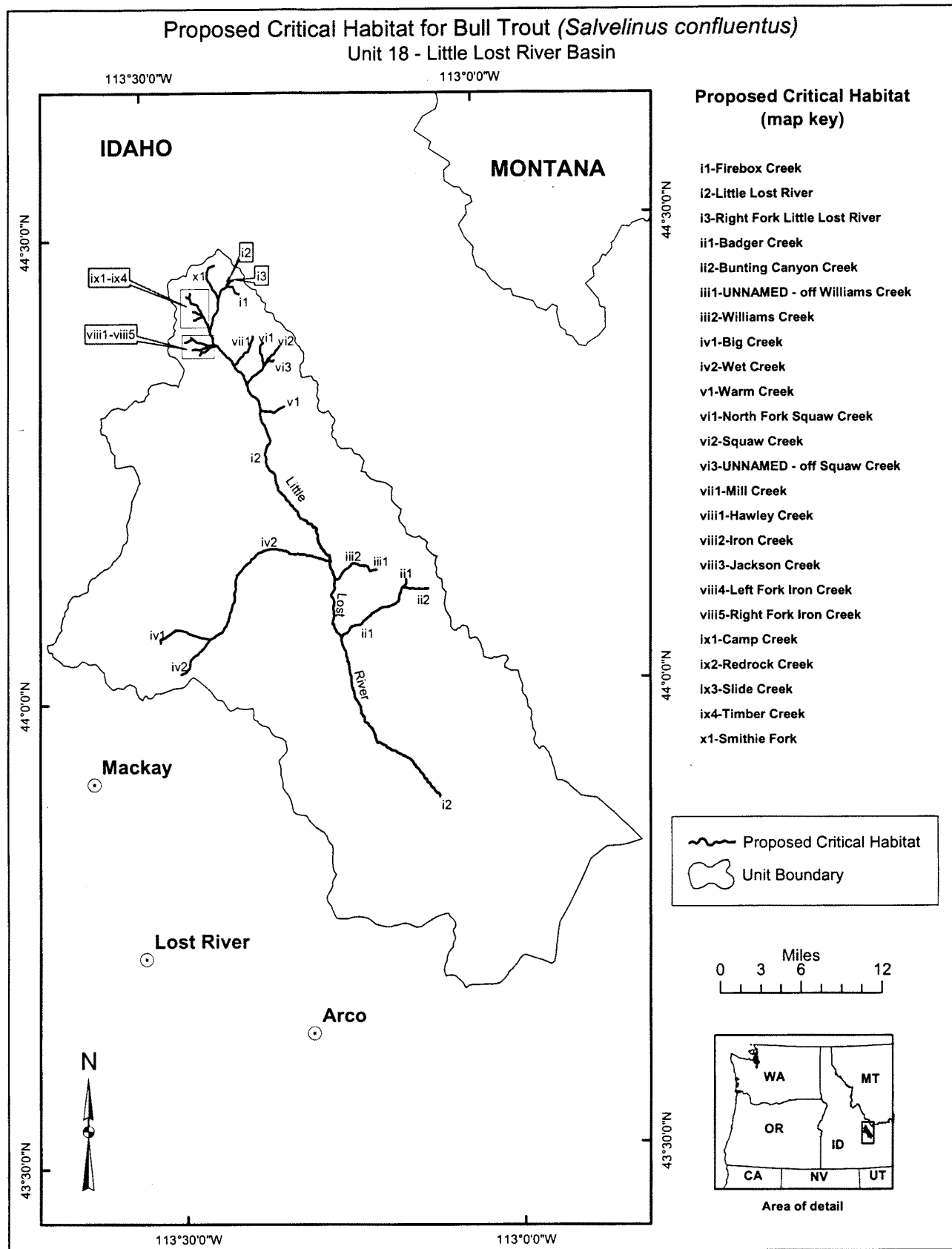
–113.412 degrees longitude to an upper point located at 44.376 degrees latitude, and –113.435 degrees longitude. Left Fork Iron Creek from a lower point located at 44.387 degrees latitude, and –113.434 degrees longitude to an upper point located at 44.384 degrees latitude, and –113.446 degrees longitude. Right Fork Iron Creek from a lower point located at 44.387 degrees latitude, and –113.434 degrees longitude to an upper point located at 44.389 degrees latitude, and –113.437 degrees longitude.

(ix) Camp Creek from a lower point located at 44.411 degrees latitude, and –113.417 degrees longitude to an upper point located at 44.408 degrees latitude, and –113.432 degrees longitude. Redrock Creek from a lower point located at 44.414 degrees latitude, and –113.419 degrees longitude to an upper point located at 44.417 degrees latitude, and –113.432 degrees longitude. Slide Creek from a lower point located at 44.432 degrees latitude, and –113.436 degrees longitude to an upper point located at 44.433 degrees latitude, and –113.441 degrees longitude. Timber Creek from a lower point located at 44.394 degrees latitude, and –113.408 degrees longitude to an upper point located at 44.437 degrees latitude, and –113.436 degrees longitude.

(x) Smithie Fork from a lower point located at 44.43 degrees latitude, and –113.393 degrees longitude to an upper point located at 44.466 degrees latitude, and –113.397 degrees longitude.

**Note:** Map follows for Unit 18.

**BILLING CODE 4310-55-P**



(23) Unit 19—Lower Columbia River Basin.

(i) Critical Habitat Subunit—Lewis River.

(A) Lewis River from a lower point located at 45.85 degrees latitude, and

– 122.782 degrees longitude to an upper point located at 46.216 degrees latitude, and – 121.667 degrees longitude.

(B) Lake Merwin centered at 45.985 degrees latitude, and – 122.485 degrees longitude. Speelyai Creek from a lower point located at 45.988 degrees latitude, and – 122.406 degrees longitude to an upper point located at 46.008 degrees latitude, and – 122.346 degrees longitude.

(C) Cougar Creek from a lower point located at 46.055 degrees latitude, and – 122.292 degrees longitude to an upper point located at 46.071 degrees latitude, and – 122.267 degrees longitude. Ole Creek from a lower point located at 46.055 degrees latitude, and – 122.236 degrees longitude to an upper point located at 46.047 degrees latitude, and – 122.237 degrees longitude. Rain Creek from a lower point located at 46.051 degrees latitude, and – 122.238 degrees longitude to an upper point located at 46.053 degrees latitude, and – 122.222 degrees longitude. Yale Lake centered at 46.012 degrees latitude, and – 122.311 degrees longitude.

(D) Swift Creek from a lower point located at 46.083 degrees latitude, and – 122.198 degrees longitude to an upper point located at 46.085 degrees latitude, and – 122.202 degrees longitude. Swift Creek Reservoir centered at 46.056 degrees latitude, and – 122.113 degrees longitude. Unnamed creek off Swift Creek Reservoir from a lower point located at 46.043 degrees latitude, and – 122.038 degrees longitude to an upper point located at 46.03 degrees latitude, and – 122.024 degrees longitude.

(E) Pine Creek from a lower point located at 46.071 degrees latitude, and – 122.016 degrees longitude to an upper point located at 46.142 degrees latitude, and – 122.095 degrees longitude. Rush Creek from a lower point located at 46.075 degrees latitude, and – 121.936 degrees longitude to an upper point located at 46.055 degrees latitude, and – 121.915 degrees longitude. Unnamed creek 1 off Pine Creek from a lower point located at 46.092 degrees latitude, and – 122.058 degrees longitude to an upper point located at 46.099 degrees latitude, and – 122.068 degrees longitude. Unnamed creek 2 off Pine Creek from a lower point located at 46.104 degrees latitude, and – 122.062 degrees longitude to an upper point located at 46.14 degrees latitude, and – 122.081 degrees longitude. Unnamed creek 3 off Pine Creek from a lower point located at 46.12 degrees latitude, and – 122.076 degrees longitude to an upper point located at 46.123 degrees latitude, and – 122.087 degrees longitude.

(ii) Critical Habitat Subunit—White Salmon River.

(A) Northwestern Lake centered at 45.775 degrees latitude, and – 121.529 degrees longitude. White Salmon River from a lower point located at 45.723 degrees latitude, and – 121.521 degrees longitude to an upper point located at 45.897 degrees latitude, and – 121.503 degrees longitude.

(B) [Reserved]

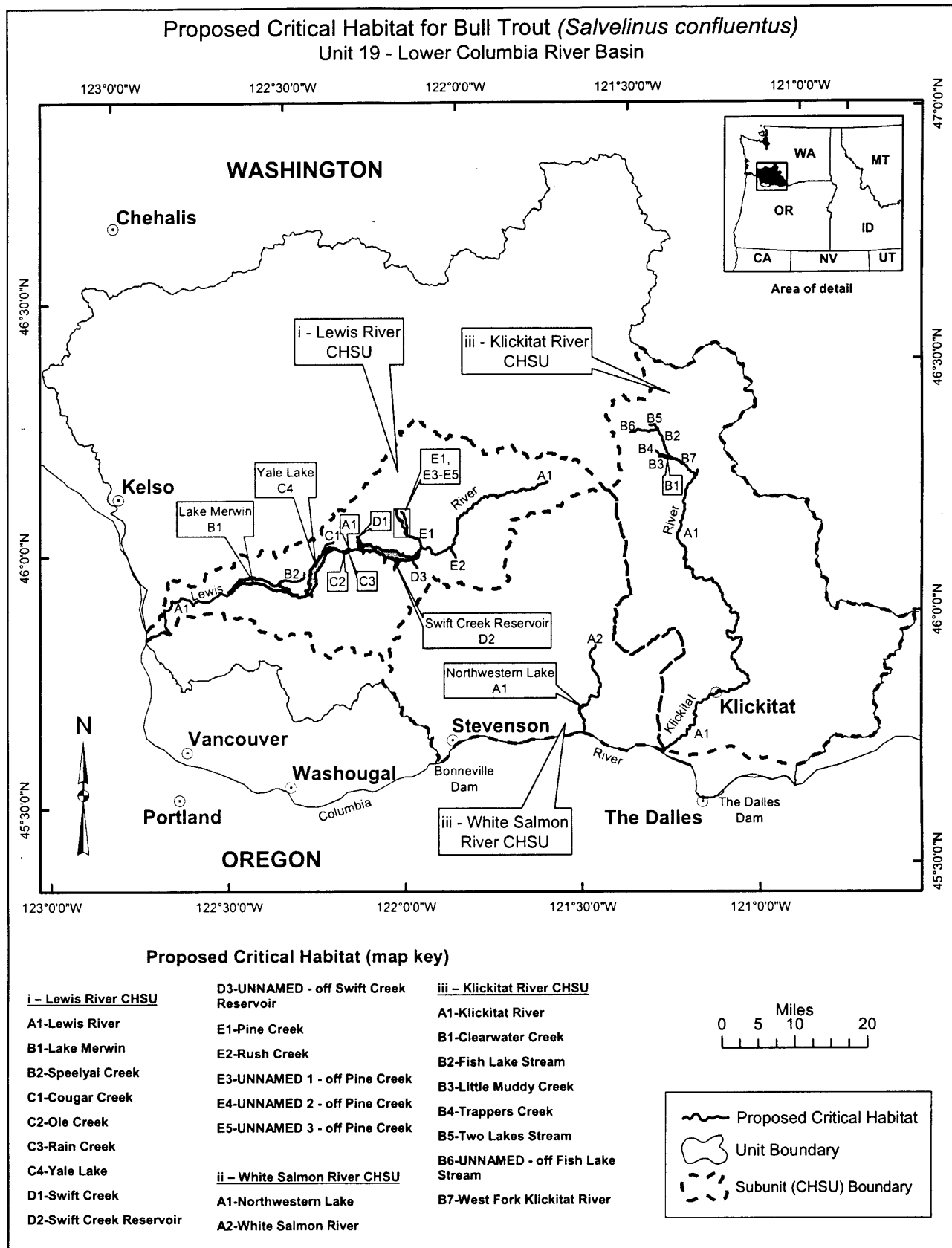
(iii) Critical Habitat Subunit—Klickitat River.

(A) Klickitat River from a lower point located at 45.691 degrees latitude, and

– 121.293 degrees longitude to an upper point located at 46.255 degrees latitude, and – 121.239 degrees longitude.

(B) Clearwater Creek from a lower point located at 46.276 degrees latitude, and – 121.327 degrees longitude to an upper point located at 46.278 degrees latitude, and – 121.33 degrees longitude. Fish Lake Stream from a lower point located at 46.275 degrees latitude, and – 121.312 degrees longitude to an upper point located at 46.342 degrees latitude, and – 121.368 degrees longitude. Little Muddy Creek from a lower point located at 46.275 degrees latitude, and – 121.312 degrees longitude to an upper point located at 46.278 degrees latitude, and – 121.352 degrees longitude. Trappers Creek from a lower point located at 46.275 degrees latitude, and – 121.33 degrees longitude to an upper point located at 46.29 degrees latitude, and – 121.362 degrees longitude. Two Lakes Stream from a lower point located at 46.342 degrees latitude, and – 121.368 degrees longitude to an upper point located at 46.34 degrees latitude, and – 121.384 degrees longitude. Unnamed creek off Fish Lake Stream from a lower point located at 46.331 degrees latitude, and – 121.359 degrees longitude to an upper point located at 46.323 degrees latitude, and – 121.437 degrees longitude. West Fork Klickitat River from a lower point located at 46.242 degrees latitude, and – 121.246 degrees longitude to an upper point located at 46.275 degrees latitude, and – 121.312 degrees longitude.

**Note:** Map follows for Unit 19.



(24) Unit 20—Middle Columbia River Basin.

(i) Yakima River from a lower point located at 46.529 degrees latitude, and – 120.472 degrees longitude to an upper point located at 47.322 degrees latitude, and – 121.339 degrees longitude.

(ii) Ahtanum Creek from a lower point located at 46.529 degrees latitude, and – 120.472 degrees longitude to an upper point located at 46.523 degrees latitude, and – 120.853 degrees longitude. Middle Fork Ahtanum Creek from a lower point located at 46.518 degrees latitude, and – 121.014 degrees longitude to an upper point located at 46.507 degrees latitude, and – 121.179 degrees longitude. North Fork Ahtanum Creek from a lower point located at 46.523 degrees latitude, and – 120.853 degrees longitude to an upper point located at 46.538 degrees latitude, and – 121.211 degrees longitude. Shellneck Creek from a lower point located at 46.531 degrees latitude, and – 121.158 degrees longitude to an upper point located at 46.516 degrees latitude, and – 121.187 degrees longitude. South Fork Ahtanum Creek from a lower point located at 46.523 degrees latitude, and – 120.853 degrees longitude to an upper point located at 46.454 degrees latitude, and – 121.118 degrees longitude.

(iii) Naches River from a lower point located at 46.63 degrees latitude, and – 120.514 degrees longitude to an upper point located at 46.989 degrees latitude, and – 121.094 degrees longitude.

(iv) Tieton River from a lower point located at 46.746 degrees latitude, and – 120.786 degrees longitude to an upper point located at 46.656 degrees latitude, and – 121.129 degrees longitude.

(v) North Fork Tieton River from a lower point located at 46.635 degrees latitude, and – 121.261 degrees longitude to an upper point located at 46.508 degrees latitude, and – 121.435 degrees longitude. Rimrock Lake centered at 46.639 degrees latitude, and – 121.179 degrees longitude.

(vi) Bear Creek from a lower point located at 46.539 degrees latitude, and – 121.259 degrees longitude to an upper point located at 46.54 degrees latitude, and – 121.281 degrees longitude. Grey Creek from a lower point located at 46.592 degrees latitude, and – 121.222 degrees longitude to an upper point located at 46.594 degrees latitude, and – 121.225 degrees longitude. Short And Dirty Creek from a lower point located at 46.617 degrees latitude, and – 121.149 degrees longitude to an upper point located at 46.616 degrees latitude, and – 121.148 degrees longitude. South Fork Tieton River from a lower point located at 46.627 degrees latitude, and – 121.132 degrees longitude to an upper

point located at 46.496 degrees latitude, and – 121.314 degrees longitude. Spruce Creek from a lower point located at 46.591 degrees latitude, and – 121.218 degrees longitude to an upper point located at 46.586 degrees latitude, and – 121.211 degrees longitude.

(vii) Indian Creek from a lower point located at 46.641 degrees latitude, and – 121.248 degrees longitude to an upper point located at 46.696 degrees latitude, and – 121.3 degrees longitude.

(viii) Clear Lake centered at 46.629 degrees latitude, and – 121.279 degrees longitude.

(ix) Dog Creek from a lower point located at 46.787 degrees latitude, and – 121.167 degrees longitude to an upper point located at 46.794 degrees latitude, and – 121.177 degrees longitude. Hindoo Creek from a lower point located at 46.785 degrees latitude, and – 121.163 degrees longitude to an upper point located at 46.781 degrees latitude, and – 121.181 degrees longitude. Little Wildcat Creek from a lower point located at 46.731 degrees latitude, and – 121.234 degrees longitude to an upper point located at 46.687 degrees latitude, and – 121.266 degrees longitude. Rattlesnake Creek from a lower point located at 46.82 degrees latitude, and – 120.929 degrees longitude to an upper point located at 46.76 degrees latitude, and – 121.315 degrees longitude.

(x) Little Naches River from a lower point located at 46.989 degrees latitude, and – 121.094 degrees longitude to an upper point located at 47.015 degrees latitude, and – 121.133 degrees longitude.

(xi) Crow Creek from a lower point located at 47.015 degrees latitude, and – 121.133 degrees longitude to an upper point located at 47.017 degrees latitude, and – 121.317 degrees longitude.

(xii) Bumping Lake centered at 46.851 degrees latitude, and – 121.326 degrees longitude. Bumping River from a lower point located at 46.989 degrees latitude, and – 121.094 degrees longitude to an upper point located at 46.868 degrees latitude, and – 121.298 degrees longitude.

(xiii) Deep Creek from a lower point located at 46.844 degrees latitude, and – 121.316 degrees longitude to an upper point located at 46.804 degrees latitude, and – 121.321 degrees longitude.

(xiv) American River from a lower point located at 46.976 degrees latitude, and – 121.157 degrees longitude to an upper point located at 46.901 degrees latitude, and – 121.415 degrees longitude. Kettle Creek from a lower point located at 46.942 degrees latitude, and – 121.326 degrees longitude to an upper point located at 46.917 degrees latitude, and – 121.341 degrees

longitude. Timber Creek from a lower point located at 46.914 degrees latitude, and – 121.385 degrees longitude to an upper point located at 46.907 degrees latitude, and – 121.381 degrees longitude. Union Creek from a lower point located at 46.932 degrees latitude, and – 121.357 degrees longitude to an upper point located at 46.937 degrees latitude, and – 121.361 degrees longitude.

(xv) North Fork Taneam Creek from a lower point located at 47.112 degrees latitude, and – 120.932 degrees longitude to an upper point located at 47.109 degrees latitude, and – 121.144 degrees longitude. South Fork Taneam Creek from a lower point located at 47.112 degrees latitude, and – 120.932 degrees longitude to an upper point located at 47.081 degrees latitude, and – 121.083 degrees longitude. Taneam Creek from a lower point located at 47.092 degrees latitude, and – 120.708 degrees longitude to an upper point located at 47.112 degrees latitude, and – 120.932 degrees longitude.

(xvi) DeRoux Creek from a lower point located at 47.419 degrees latitude, and – 120.94 degrees longitude to an upper point located at 47.442 degrees latitude, and – 120.979 degrees longitude. Jack Creek from a lower point located at 47.319 degrees latitude, and – 120.855 degrees longitude to an upper point located at 47.334 degrees latitude, and – 120.742 degrees longitude. Jungle Creek from a lower point located at 47.333 degrees latitude, and – 120.855 degrees longitude to an upper point located at 47.333 degrees latitude, and – 120.923 degrees longitude. North Fork Teanaway River from a lower point located at 47.251 degrees latitude, and – 120.877 degrees longitude to an upper point located at 47.454 degrees latitude, and – 120.965 degrees longitude.

Teanaway River from a lower point located at 47.167 degrees latitude, and – 120.834 degrees longitude to an upper point located at 47.257 degrees latitude, and – 120.897 degrees longitude.

(xvii) Middle Fork Teanaway River from a lower point located at 47.257 degrees latitude, and – 120.897 degrees longitude to an upper point located at 47.42 degrees latitude, and – 120.992 degrees longitude.

(xviii) Cle Elum River from a lower point located at 47.177 degrees latitude, and – 120.99 degrees longitude to an upper point located at 47.589 degrees latitude, and – 121.161 degrees longitude.

(xix) Cle Elum Lake centered at 47.28 degrees latitude, and – 121.105 degrees longitude. Cooper River from a lower point located at 47.391 degrees latitude, and – 121.098 degrees longitude to an

upper point located at 47.455 degrees latitude, and – 121.213 degrees longitude. Fortune Creek from a lower point located at 47.478 degrees latitude, and – 121.046 degrees longitude to an upper point located at 47.469 degrees latitude, and – 120.964 degrees longitude. Waptus River from a lower point located at 47.419 degrees latitude, and – 121.086 degrees longitude to an upper point located at 47.54 degrees latitude, and – 121.24 degrees longitude.

(xx) Kachess River from a lower point located at 47.251 degrees latitude, and – 121.2 degrees longitude to an upper point located at 47.429 degrees latitude, and – 121.222 degrees longitude. Mineral Creek from a lower point located at 47.42 degrees latitude, and – 121.24 degrees longitude to an upper point located at 47.424 degrees latitude, and – 121.251 degrees longitude.

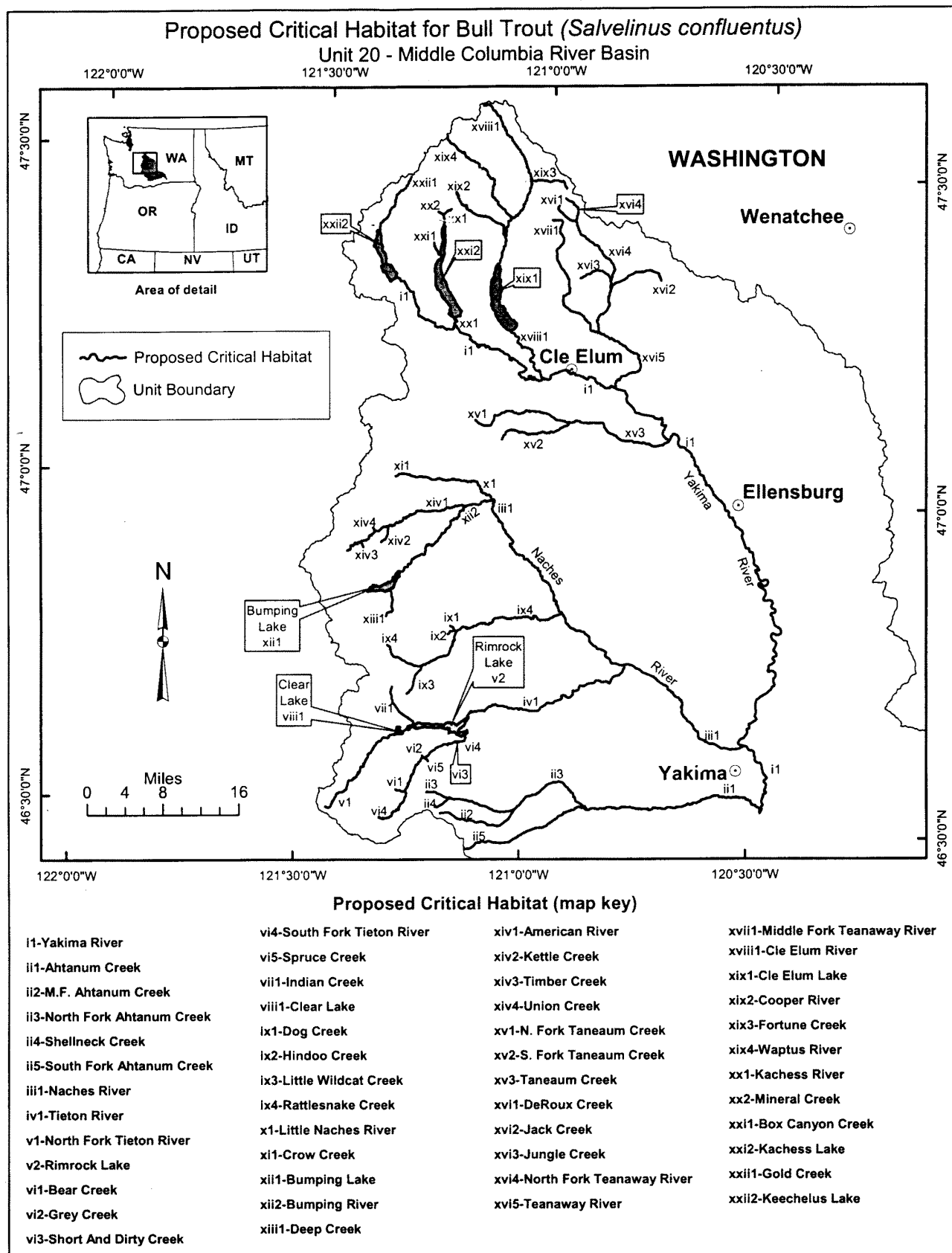
(xxi) Box Canyon Creek from a lower point located at 47.361 degrees latitude, and – 121.243 degrees longitude to an upper point located at 47.377 degrees

latitude, and – 121.257 degrees longitude. Kachess Lake centered at 47.317 degrees latitude, and – 121.227 degrees longitude.

(xxii) Gold Creek from a lower point located at 47.39 degrees latitude, and – 121.382 degrees longitude to an upper point located at 47.475 degrees latitude, and – 121.316 degrees longitude. Keechelus Lake centered at 47.349 degrees latitude, and – 121.367 degrees longitude.

**Note:** Map follows for Unit 20.

**BILLING CODE 4310–55–P**



(25) Unit 21—Upper Columbia River Basin.

(i) Critical Habitat Subunit—Wenatchee River.

(A) Lake Wenatchee centered at 47.823 degrees latitude, and – 120.777 degrees longitude. Wenatchee River from a lower point located at 47.456 degrees latitude, and – 120.316 degrees longitude to an upper point located at 47.808 degrees latitude, and – 120.727 degrees longitude.

(B) Ingalls Creek from a lower point located at 47.463 degrees latitude, and – 120.66 degrees longitude to an upper point located at 47.449 degrees latitude, and – 120.858 degrees longitude.

Peshastin Creek from a lower point located at 47.558 degrees latitude, and – 120.573 degrees longitude to an upper point located at 47.443 degrees latitude, and – 120.662 degrees longitude.

(C) French Creek from a lower point located at 47.628 degrees latitude, and – 120.961 degrees longitude to an upper point located at 47.593 degrees latitude, and – 121.041 degrees longitude. Icicle Creek from a lower point located at 47.58 degrees latitude, and – 120.666 degrees longitude to an upper point located at 47.695 degrees latitude, and – 121.054 degrees longitude. Jack Creek from a lower point located at 47.608 degrees latitude, and – 120.898 degrees longitude to an upper point located at 47.53 degrees latitude, and – 120.951 degrees longitude.

(D) Chiwaukum Creek from a lower point located at 47.679 degrees latitude, and – 120.727 degrees longitude to an upper point located at 47.714 degrees latitude, and – 120.834 degrees longitude.

(E) Alpine Creek from a lower point located at 48.084 degrees latitude, and – 120.863 degrees longitude to an upper point located at 48.083 degrees latitude, and – 120.865 degrees longitude. Buck Creek from a lower point located at 48.104 degrees latitude, and – 120.877 degrees longitude to an upper point located at 48.106 degrees latitude, and – 120.885 degrees longitude. Chikamin Creek from a lower point located at 47.904 degrees latitude, and – 120.73 degrees longitude to an upper point located at 48.011 degrees latitude, and – 120.722 degrees longitude. Chiwawa River from a lower point located at 47.788 degrees latitude, and – 120.658 degrees longitude to an upper point located at 48.104 degrees latitude, and – 120.877 degrees longitude. James Creek from a lower point located at 48.077 degrees latitude, and – 120.856 degrees longitude to an upper point located at 48.075 degrees latitude, and – 120.86 degrees longitude. Phelps Creek from a lower point located at

48.071 degrees latitude, and – 120.851 degrees longitude to an upper point located at 48.081 degrees latitude, and – 120.838 degrees longitude. Rock Creek from a lower point located at 47.963 degrees latitude, and – 120.795 degrees longitude to an upper point located at 48.037 degrees latitude, and – 120.762 degrees longitude.

(F) Mill Creek from a lower point located at 47.777 degrees latitude, and – 121.01 degrees longitude to an upper point located at 47.772 degrees latitude, and – 121.02 degrees longitude. Nason Creek from a lower point located at 47.81 degrees latitude, and – 120.715 degrees longitude to an upper point located at 47.784 degrees latitude, and – 121.027 degrees longitude.

(G) Little Wenatchee River from a lower point located at 47.827 degrees latitude, and – 120.818 degrees longitude to an upper point located at 47.846 degrees latitude, and – 120.932 degrees longitude.

(H) Canyon Creek from a lower point located at 47.907 degrees latitude, and – 120.894 degrees longitude to an upper point located at 47.891 degrees latitude, and – 120.964 degrees longitude.

Napeequa River from a lower point located at 47.922 degrees latitude, and – 120.896 degrees longitude to an upper point located at 47.938 degrees latitude, and – 120.872 degrees longitude.

Panther Creek from a lower point located at 47.941 degrees latitude, and – 120.928 degrees longitude to an upper point located at 47.938 degrees latitude, and – 120.941 degrees longitude. White River from a lower point located at 47.834 degrees latitude, and – 120.814 degrees longitude to an upper point located at 47.953 degrees latitude, and – 120.939 degrees longitude.

(ii) Critical Habitat Subunit—Entiat River.

(A) Entiat River from a lower point located at 47.661 degrees latitude, and – 120.217 degrees longitude to an upper point located at 47.92 degrees latitude, and – 120.506 degrees longitude.

(B) Mad River from a lower point located at 47.736 degrees latitude, and – 120.362 degrees longitude to an upper point located at 47.864 degrees latitude, and – 120.607 degrees longitude. Tillicum Creek from a lower point located at 47.748 degrees latitude, and – 120.393 degrees longitude to an upper point located at 47.724 degrees latitude, and – 120.438 degrees longitude.

(iii) Critical Habitat Subunit—Methow River.

(A) Methow River from a lower point located at 48.05 degrees latitude, and – 119.893 degrees longitude to an upper point located at 48.586 degrees latitude, and – 120.744 degrees longitude.

Rattlesnake Creek from a lower point located at 48.649 degrees latitude, and – 120.564 degrees longitude to an upper point located at 48.695 degrees latitude, and – 120.635 degrees longitude.

Robinson Creek from a lower point located at 48.66 degrees latitude, and – 120.537 degrees longitude to an upper point located at 48.75 degrees latitude, and – 120.633 degrees longitude. Trout Creek from a lower point located at 48.64 degrees latitude, and – 120.598 degrees longitude to an upper point located at 48.664 degrees latitude, and – 120.709 degrees longitude.

(B) Crater Creek from a lower point located at 48.214 degrees latitude, and – 120.208 degrees longitude to an upper point located at 48.215 degrees latitude, and – 120.268 degrees longitude. Gold Creek from a lower point located at 48.188 degrees latitude, and – 120.094 degrees longitude to an upper point located at 48.185 degrees latitude, and – 120.115 degrees longitude. N. Fork Gold Creek from a lower point located at 48.185 degrees latitude, and – 120.115 degrees longitude to an upper point located at 48.214 degrees latitude, and – 120.208 degrees longitude.

(C) Beaver Creek from a lower point located at 48.327 degrees latitude, and – 120.065 degrees longitude to an upper point located at 48.486 degrees latitude, and – 120.004 degrees longitude. Blue Buck Creek from a lower point located at 48.486 degrees latitude, and – 120.004 degrees longitude to an upper point located at 48.553 degrees latitude, and – 119.962 degrees longitude.

(D) Buttermilk Creek from a lower point located at 48.363 degrees latitude, and – 120.338 degrees longitude to an upper point located at 48.34 degrees latitude, and – 120.302 degrees longitude. East Fork Buttermilk Creek from a lower point located at 48.34 degrees latitude, and – 120.302 degrees longitude to an upper point located at 48.299 degrees latitude, and – 120.298 degrees longitude. Little Bridge Creek from a lower point located at 48.379 degrees latitude, and – 120.285 degrees longitude to an upper point located at 48.449 degrees latitude, and – 120.431 degrees longitude. North Creek from a lower point located at 48.454 degrees latitude, and – 120.562 degrees longitude to an upper point located at 48.464 degrees latitude, and – 120.557 degrees longitude. Reynolds Creek from a lower point located at 48.406 degrees latitude, and – 120.478 degrees longitude to an upper point located at 48.403 degrees latitude, and – 120.491 degrees longitude. Twisp River from a lower point located at 48.369 degrees latitude, and – 120.118 degrees longitude to an upper point located at



48.463 degrees latitude, and – 120.6 degrees longitude. West Fork Buttermilk Creek from a lower point located at 48.34 degrees latitude, and – 120.302 degrees longitude to an upper point located at 48.259 degrees latitude, and – 120.436 degrees longitude.

(E) Black Lake centered at 48.829 degrees latitude, and – 120.207 degrees longitude. Chewuch River from a lower point located at 48.476 degrees latitude, and – 120.182 degrees longitude to an upper point located at 48.815 degrees latitude, and – 120.019 degrees longitude. Lake Creek from a lower point located at 48.75 degrees latitude, and – 120.136 degrees longitude to an upper point located at 48.848 degrees latitude, and – 120.237 degrees longitude.

(F) Wolf Creek from a lower point located at 48.491 degrees latitude, and – 120.231 degrees longitude to an upper

point located at 48.476 degrees latitude, and – 120.439 degrees longitude.

(G) Goat Creek from a lower point located at 48.574 degrees latitude, and – 120.378 degrees longitude to an upper point located at 48.73 degrees latitude, and – 120.359 degrees longitude.

(H) Cedar Creek from a lower point located at 48.589 degrees latitude, and – 120.47 degrees longitude to an upper point located at 48.558 degrees latitude, and – 120.482 degrees longitude. Early Winters Creek from a lower point located at 48.601 degrees latitude, and – 120.436 degrees longitude to an upper point located at 48.504 degrees latitude, and – 120.624 degrees longitude.

Huckleberry Creek from a lower point located at 48.569 degrees latitude, and – 120.472 degrees longitude to an upper point located at 48.512 degrees latitude, and – 120.449 degrees longitude.

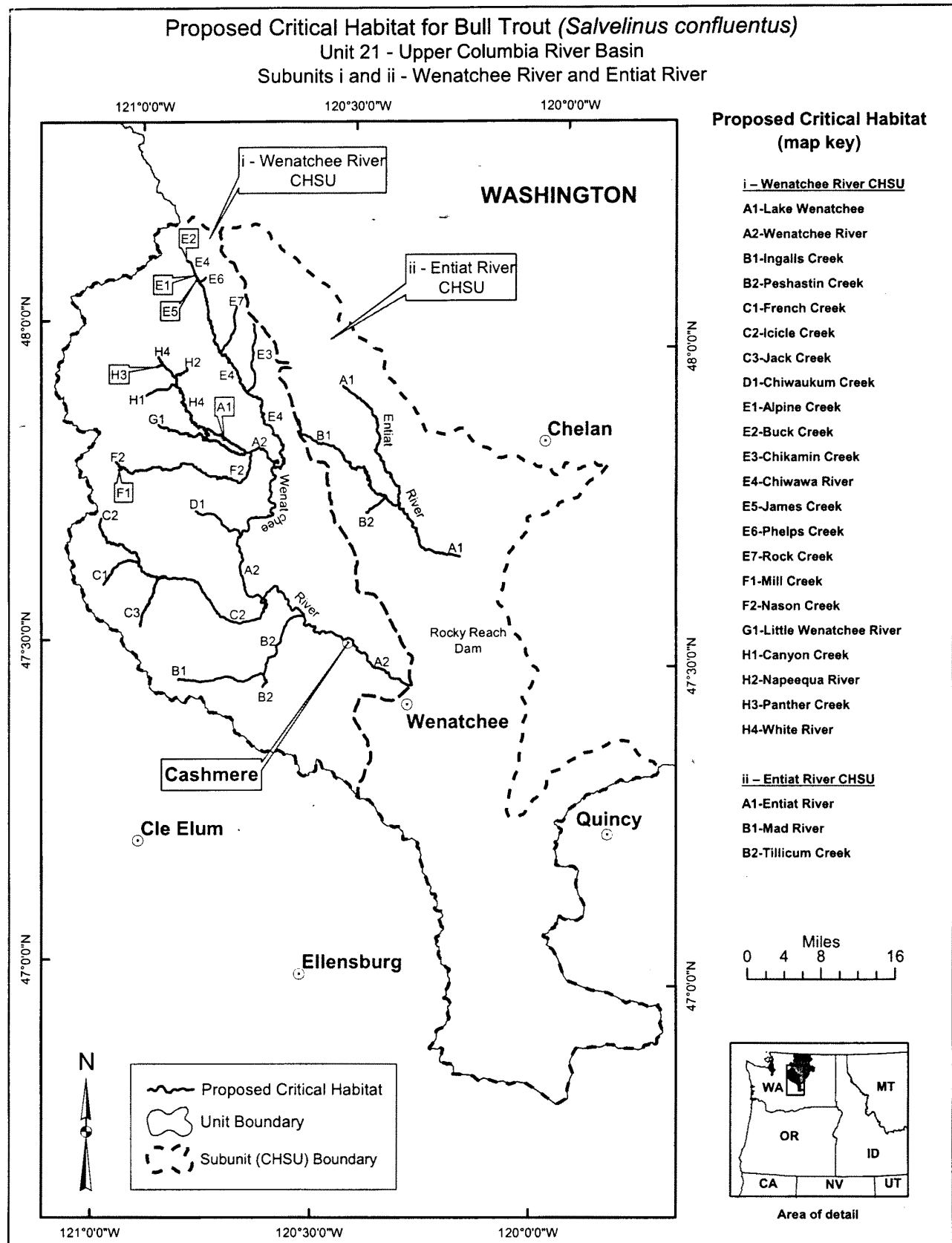
(I) Cougar Lake centered at 48.881 degrees latitude, and – 120.464 degrees longitude. First Hidden Lake centered at

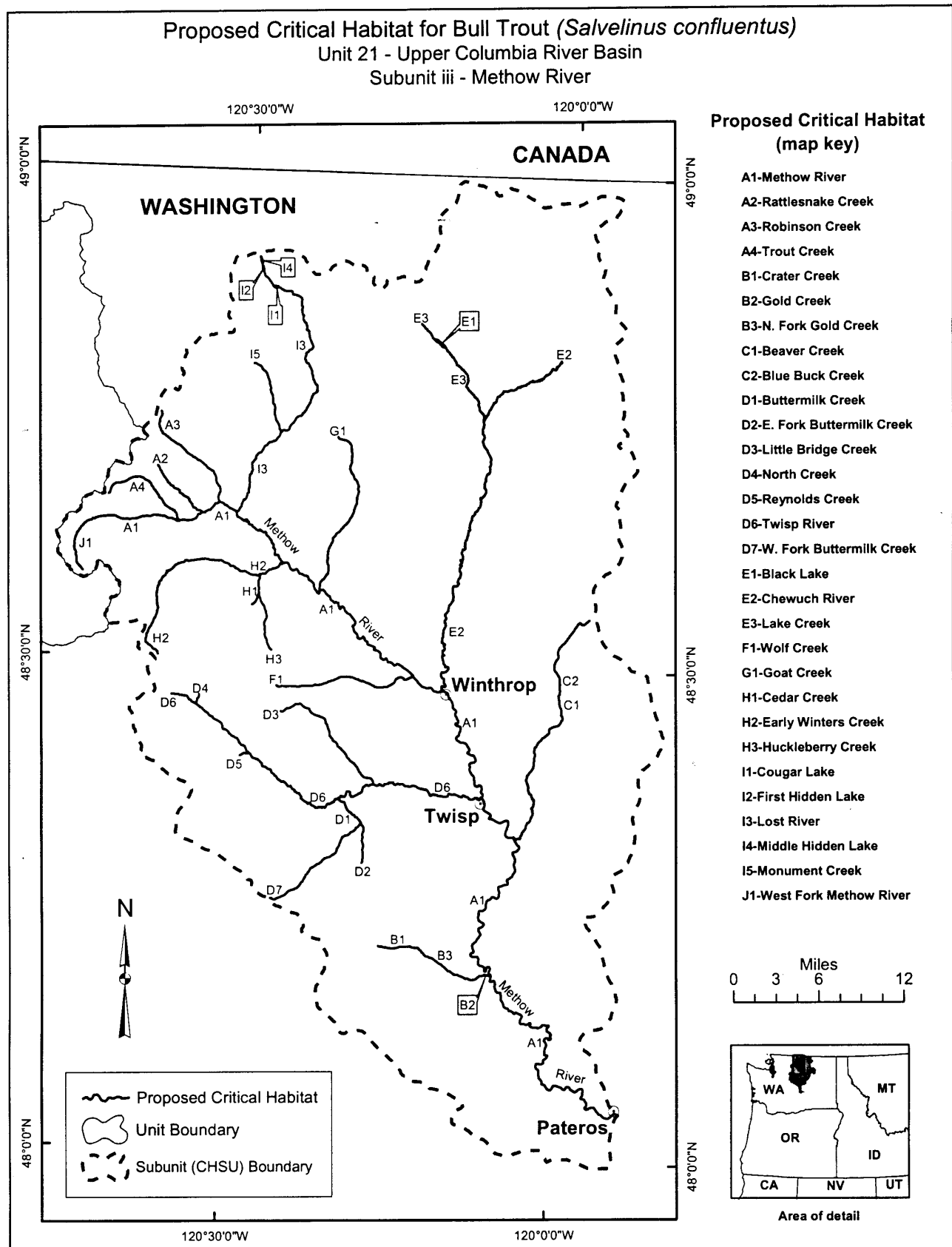
48.899 degrees latitude, and – 120.485 degrees longitude. Lost River from a lower point located at 48.65 degrees latitude, and – 120.511 degrees longitude to an upper point located at 48.905 degrees latitude, and – 120.488 degrees longitude. Middle Hidden Lake centered at 48.908 degrees latitude, and – 120.488 degrees longitude. Monument Creek from a lower point located at 48.733 degrees latitude, and – 120.448 degrees longitude to an upper point located at 48.803 degrees latitude, and – 120.493 degrees longitude.

(J) West Fork Methow River from a lower point located at 48.65 degrees latitude, and – 120.511 degrees longitude to an upper point located at 48.586 degrees latitude, and – 120.744 degrees longitude.

**Note:** Maps follow for Unit 21, Subunits i and ii; and Subunit iii.

**BILLING CODE 4310–55–P**





(26) Unit 22—Northeast Washington River Basins.

(i) Critical Habitat Subunit—Pend Oreille River.

(A) Pend Oreille River from a lower point located at 48.179 degrees latitude, and – 116.998 degrees longitude to an upper point located at 48.989 degrees latitude, and – 117.348 degrees longitude.

(B) Slate Creek from a lower point located at 48.923 degrees latitude, and – 117.332 degrees longitude to an upper point located at 48.948 degrees latitude, and – 117.165 degrees longitude.

(C) Harvey Creek from a lower point located at 48.789 degrees latitude, and – 117.285 degrees longitude to an upper point located at 48.691 degrees latitude, and – 117.182 degrees longitude. Outlet Creek from a lower point located at 48.847 degrees latitude, and – 117.288 degrees longitude to an upper point located at 48.839 degrees latitude, and – 117.288 degrees longitude. Sullivan Creek from a lower point located at 48.865 degrees latitude, and – 117.37 degrees longitude to an upper point located at 48.95 degrees latitude, and – 117.07 degrees longitude. Sullivan Lake centered at 48.815 degrees latitude, and – 117.289 degrees longitude.

(D) Cedar Creek from a lower point located at 48.742 degrees latitude, and – 117.411 degrees longitude to an upper

point located at 48.846 degrees latitude, and – 117.521 degrees longitude.

(E) Ruby Creek from a lower point located at 48.556 degrees latitude, and – 117.342 degrees longitude to an upper point located at 48.568 degrees latitude, and – 117.509 degrees longitude.

(F) East Branch Leclerc Creek from a lower point located at 48.534 degrees latitude, and – 117.282 degrees longitude to an upper point located at 48.673 degrees latitude, and – 117.188 degrees longitude. Fourth Of July Creek from a lower point located at 48.556 degrees latitude, and – 117.272 degrees longitude to an upper point located at 48.573 degrees latitude, and – 117.2 degrees longitude. LeClerc Creek from a lower point located at 48.518 degrees latitude, and – 117.283 degrees longitude to an upper point located at 48.534 degrees latitude, and – 117.282 degrees longitude. West Branch LeClerc Creek from a lower point located at 48.534 degrees latitude, and – 117.282 degrees longitude to an upper point located at 48.701 degrees latitude, and – 117.211 degrees longitude.

(G) Mill Creek from a lower point located at 48.489 degrees latitude, and – 117.265 degrees longitude to an upper point located at 48.493 degrees latitude, and – 117.239 degrees longitude.

(H) North Fork of S. Fork Tacoma Creek from a lower point located at 48.399 degrees latitude, and – 117.361

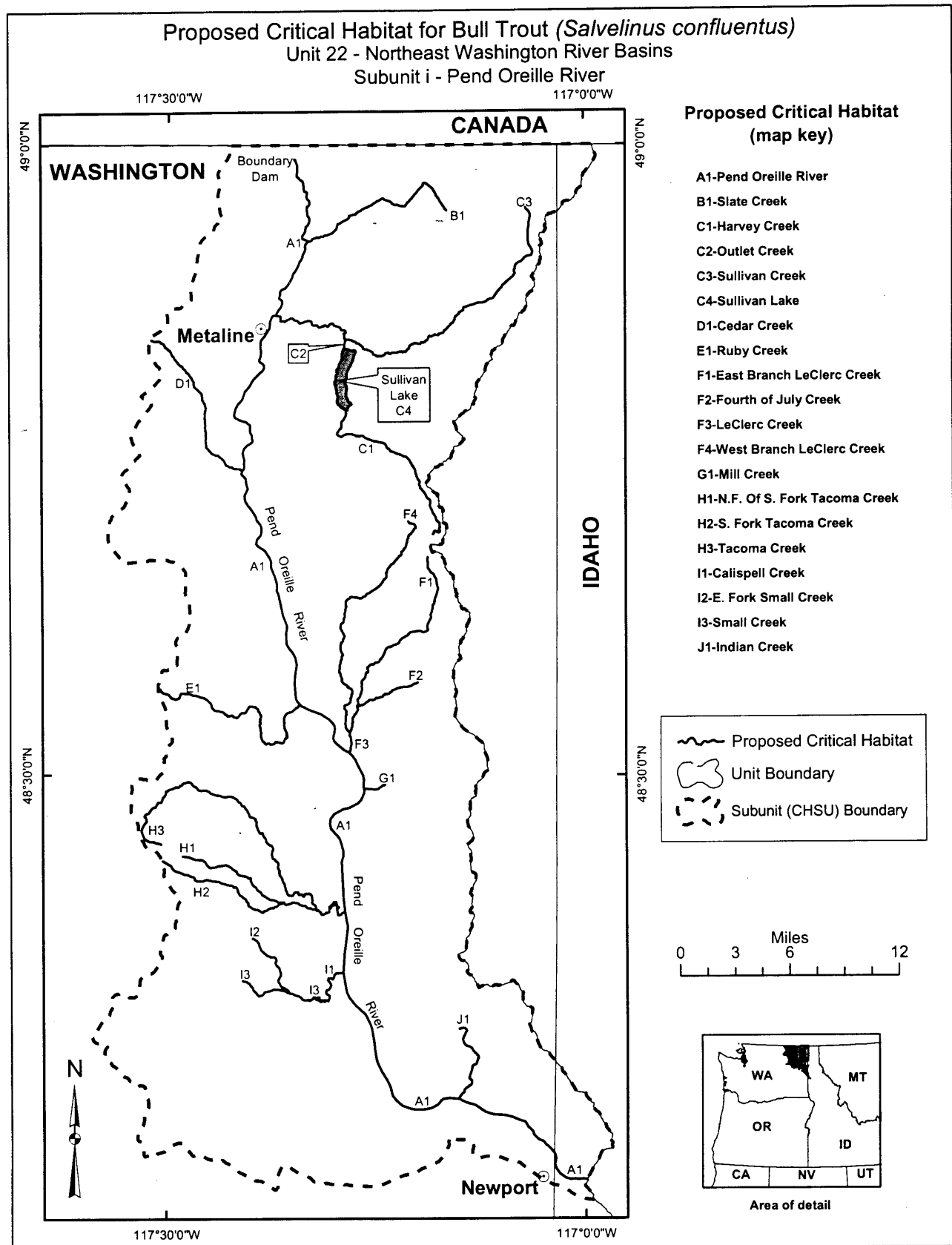
degrees longitude to an upper point located at 48.436 degrees latitude, and – 117.482 degrees longitude. South Fork Tacoma Creek from a lower point located at 48.394 degrees latitude, and – 117.323 degrees longitude to an upper point located at 48.432 degrees latitude, and – 117.506 degrees longitude. Tacoma Creek from a lower point located at 48.392 degrees latitude, and – 117.288 degrees longitude to an upper point located at 48.445 degrees latitude, and – 117.507 degrees longitude.

(I) Calispell Creek from a lower point located at 48.344 degrees latitude, and – 117.289 degrees longitude to an upper point located at 48.321 degrees latitude, and – 117.307 degrees longitude. East Fork Small Creek from a lower point located at 48.328 degrees latitude, and – 117.354 degrees longitude to an upper point located at 48.371 degrees latitude, and – 117.398 degrees longitude. Small Creek from a lower point located at 48.321 degrees latitude, and – 117.307 degrees longitude to an upper point located at 48.337 degrees latitude, and – 117.409 degrees longitude.

(J) Indian Creek from a lower point located at 48.243 degrees latitude, and – 117.151 degrees longitude to an upper point located at 48.299 degrees latitude, and – 117.151 degrees longitude.

(ii) [Reserved]

**Note:** Map follows for Unit 22.



(27) Unit 23—Snake River Basin in Washington.

(i) Critical Habitat Subunit—Tucannon River.

(A) Tucannon River from a lower point located at 46.558 degrees latitude, and – 118.174 degrees longitude to an upper point located at 46.139 degrees latitude, and – 117.52 degrees longitude.

(B) Cummings Creek from a lower point located at 46.333 degrees latitude, and – 117.674 degrees longitude to an upper point located at 46.219 degrees latitude, and – 117.595 degrees longitude.

(C) Hixon Creek from a lower point located at 46.246 degrees latitude, and – 117.683 degrees longitude to an upper point located at 46.219 degrees latitude, and – 117.651 degrees longitude.

(D) Little Tucannon River from a lower point located at 46.228 degrees latitude, and – 117.721 degrees longitude to an upper point located at 46.181 degrees latitude, and – 117.751 degrees longitude.

(E) Panjab Creek from a lower point located at 46.205 degrees latitude, and – 117.705 degrees longitude to an upper point located at 46.115 degrees latitude, and – 117.682 degrees longitude.

(F) Meadow Creek from a lower point located at 46.177 degrees latitude, and – 117.718 degrees longitude to an upper point located at 46.102 degrees latitude, and – 117.785 degrees longitude.

(G) Turkey Creek from a lower point located at 46.161 degrees latitude, and – 117.702 degrees longitude to an upper

point located at 46.113 degrees latitude, and – 117.738 degrees longitude.

(H) Little Turkey Creek from a lower point located at 46.155 degrees latitude, and – 117.736 degrees longitude to an upper point located at 46.116 degrees latitude, and – 117.749 degrees longitude.

(I) Cold Creek from a lower point located at 46.191 degrees latitude, and – 117.63 degrees longitude to an upper point located at 46.168 degrees latitude, and – 117.644 degrees longitude.

(J) Sheep Creek from a lower point located at 46.188 degrees latitude, and – 117.624 degrees longitude to an upper point located at 46.195 degrees latitude, and – 117.623 degrees longitude.

(K) Bear Creek from a lower point located at 46.168 degrees latitude, and – 117.559 degrees longitude to an upper point located at 46.134 degrees latitude, and – 117.561 degrees longitude.

(ii) Critical Habitat Subunit—Asotin Creek.

(A) Asotin Creek from a lower point located at 46.345 degrees latitude, and – 117.053 degrees longitude to an upper point located at 46.272 degrees latitude, and – 117.291 degrees longitude.

(B) George Creek from a lower point located at 46.326 degrees latitude, and – 117.105 degrees longitude to an upper point located at 46.118 degrees latitude, and – 117.363 degrees longitude.

(C) Wormell Creek from a lower point located at 46.171 degrees latitude, and – 117.206 degrees longitude to an upper point located at 46.115 degrees latitude, and – 117.201 degrees longitude.

(D) Hefflefinger Creek from a lower point located at 46.169 degrees latitude,

and – 117.243 degrees longitude to an upper point located at 46.111 degrees latitude, and – 117.248 degrees longitude.

(E) Coombs Creek from a lower point located at 46.168 degrees latitude, and – 117.253 degrees longitude to an upper point located at 46.109 degrees latitude, and – 117.267 degrees longitude.

(F) Charley Creek from a lower point located at 46.289 degrees latitude, and – 117.278 degrees longitude to an upper point located at 46.21 degrees latitude, and – 117.552 degrees longitude.

(G) N. Fork Asotin Creek from a lower point located at 46.272 degrees latitude, and – 117.291 degrees longitude to an upper point located at 46.196 degrees latitude, and – 117.568 degrees longitude.

(H) South Fork of N. Fork Asotin Creek from a lower point located at 46.197 degrees latitude, and – 117.426 degrees longitude to an upper point located at 46.125 degrees latitude, and – 117.468 degrees longitude.

(I) Middle Branch Of N. Fork Asotin Creek from a lower point located at 46.196 degrees latitude, and – 117.433 degrees longitude to an upper point located at 46.14 degrees latitude, and – 117.487 degrees longitude.

(J) Cougar Creek from a lower point located at 46.205 degrees latitude, and – 117.508 degrees longitude to an upper point located at 46.163 degrees latitude, and – 117.518 degrees longitude.

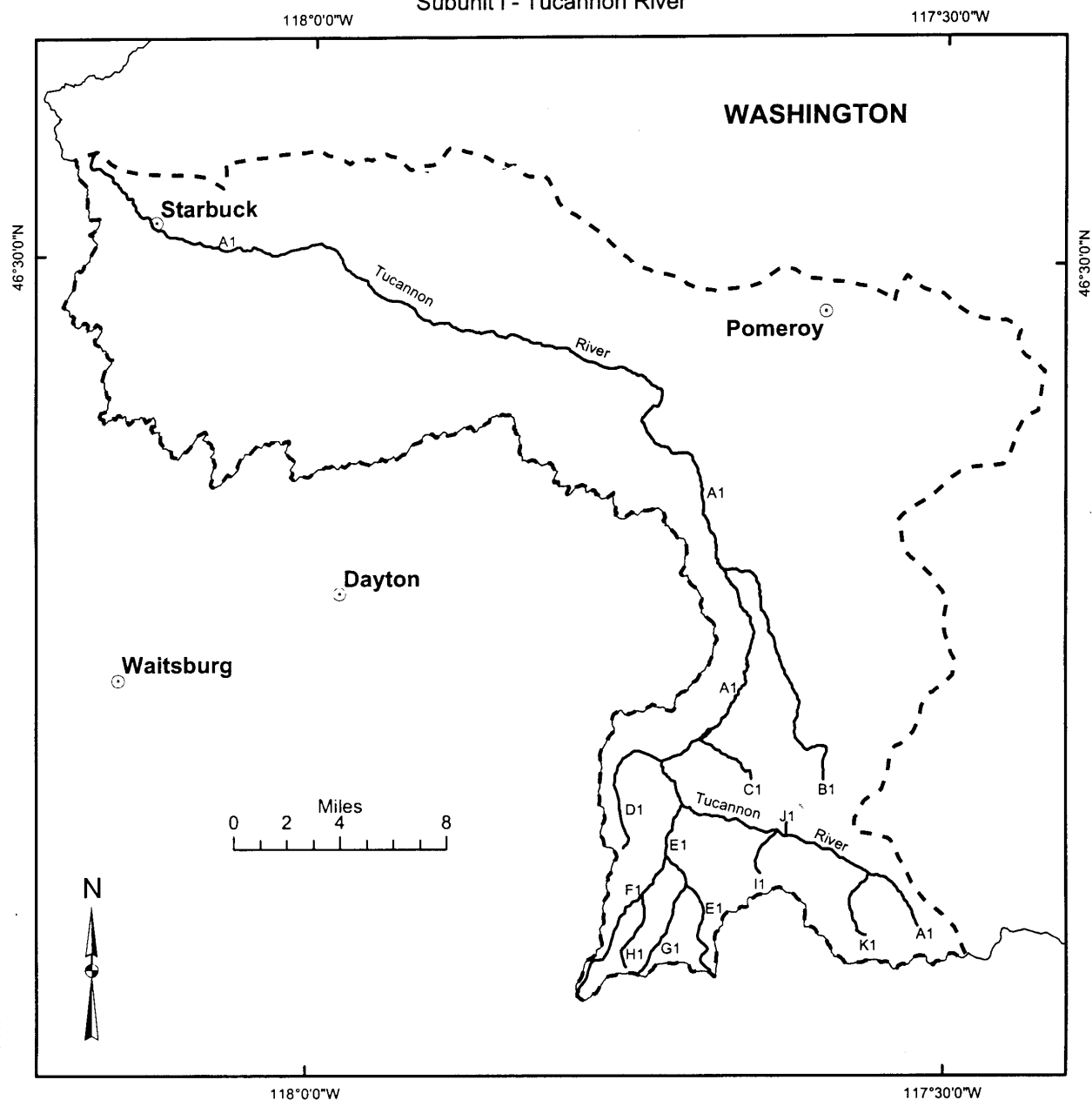
**Note:** Maps follow for Unit 23 Subunit i and for Subunit ii.

**BILLING CODE 4310–55–P**

Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

Unit 23 - Snake River Basin in Washington

Subunit i - Tucannon River



## Proposed Critical Habitat (map key)

A1-Tucannon River

B1-Cummings Creek

C1-Hixon Creek

D1-Little Tucannon River

E1-Panjab Creek

F1-Meadow Creek

G1-Turkey Creek

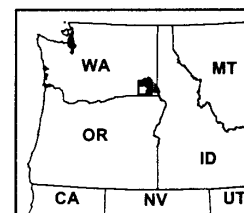
H1-Little Turkey Creek

I1-Cold Creek

J1-Sheep Creek

K1-Bear Creek

- Proposed Critical Habitat
- Unit Boundary
- Subunit (CHSU) Boundary

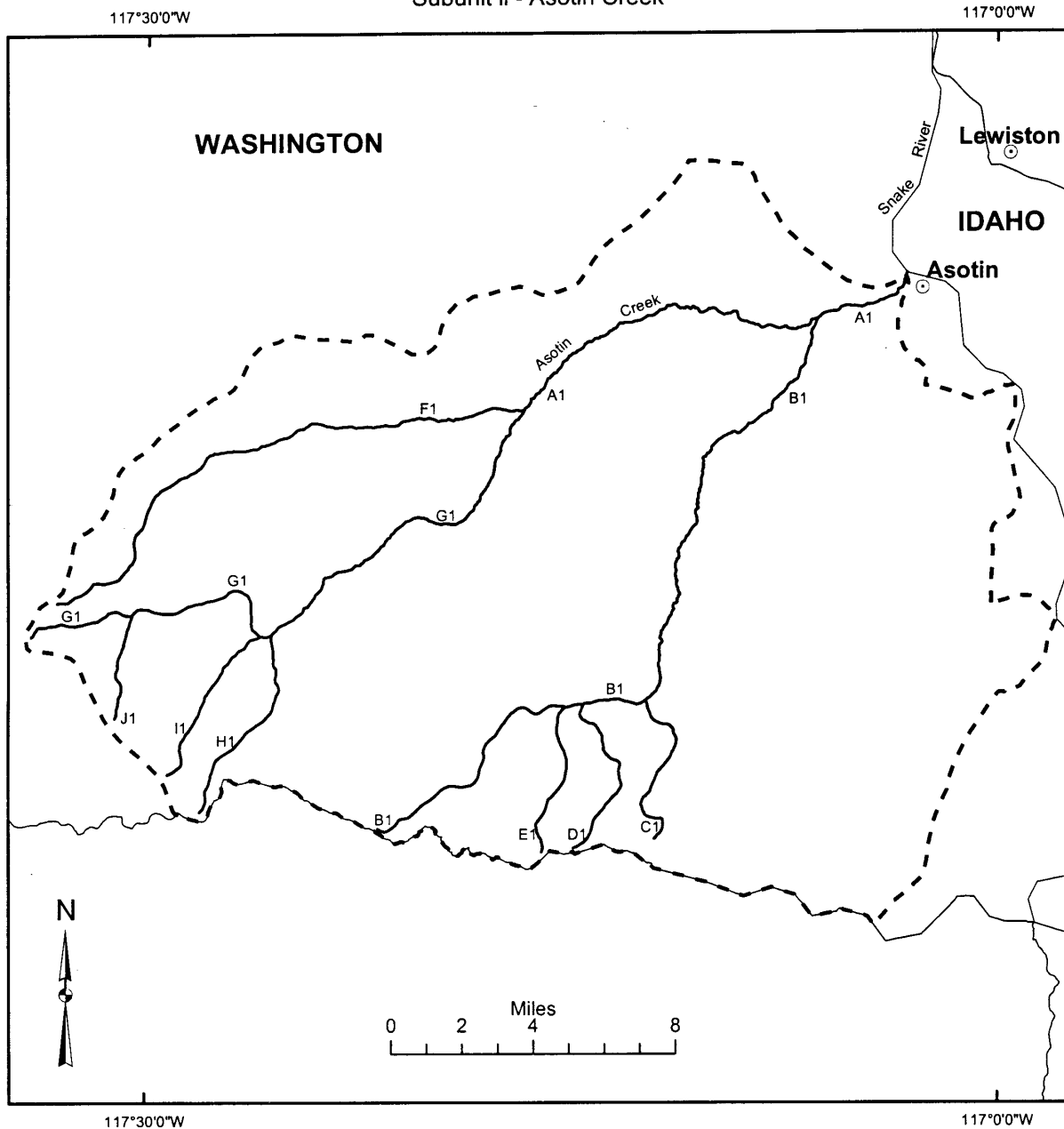


Area of detail

# Proposed Critical Habitat for Bull Trout (*Salvelinus confluentus*)

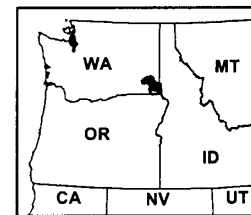
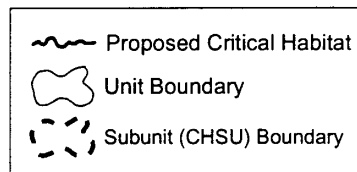
## Unit 23 - Snake River Basin in Washington

### Subunit ii - Asotin Creek



#### Proposed Critical Habitat (map key)

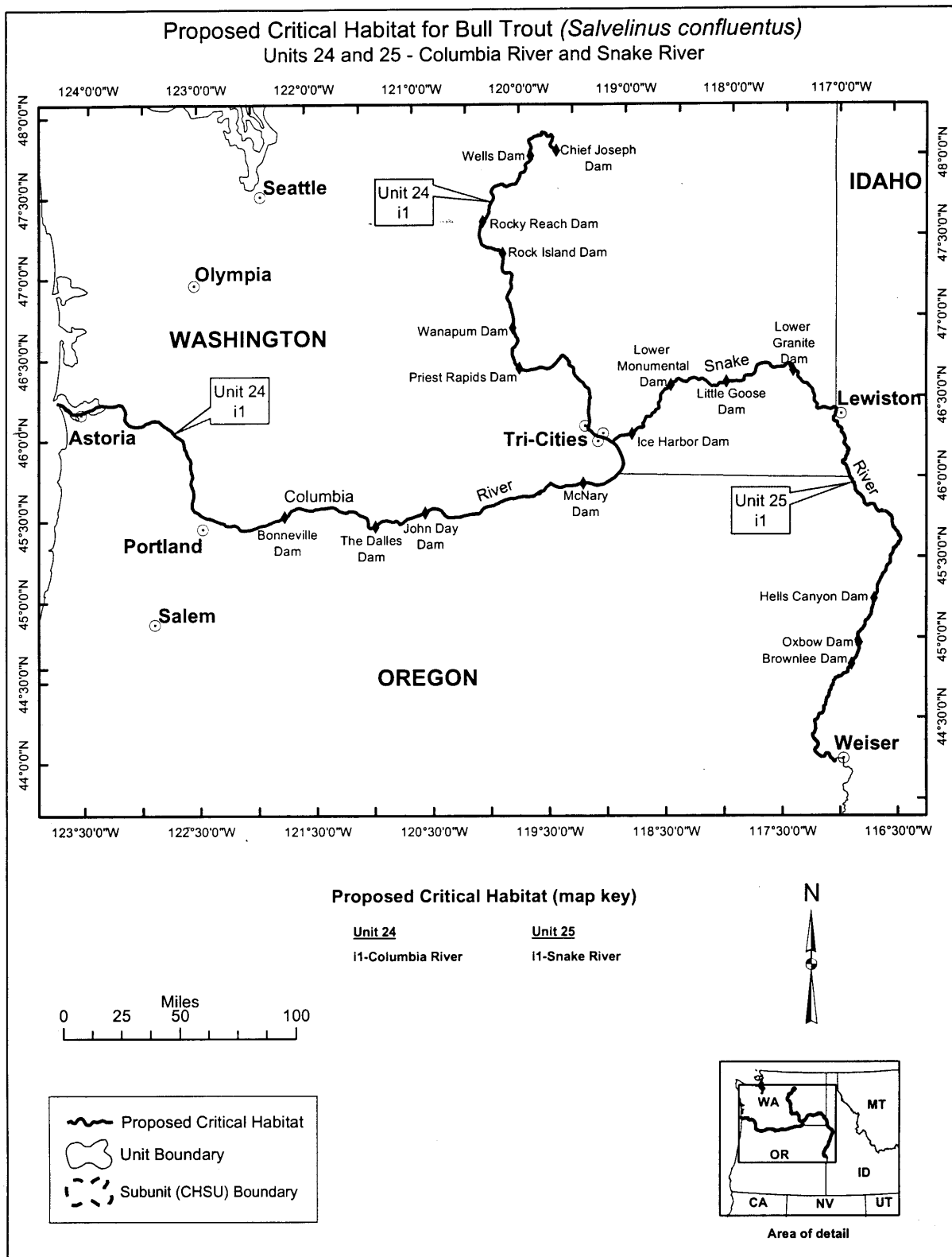
- |                       |                                  |
|-----------------------|----------------------------------|
| A1-Asotin Creek       | F1-Charley Creek                 |
| B1-George Creek       | G1-N. Fork Asotin Creek          |
| C1-Wormell Creek      | H1-S. F. Of N. Fork Asotin Creek |
| D1-Hefflefinger Creek | I1-M. B. Of N. Fork Asotin Creek |
| E1-Coombs Creek       | J1-Cougar Creek                  |



Area of detail



- 
- |   |   |   |
|---|---|---|
| (28) Unit 24—Columbia River.            | point located at 48.067 degrees latitude, | – 119.03 degrees longitude to an upper        |
| (i) Columbia River from a lower point   | and – 119.516 degrees longitude.          | point located at 44.243 degrees latitude,     |
| located at 46.246 degrees latitude, and | (ii) [Reserved]                           | and – 117.041 degrees longitude.              |
| – 124.048 degrees longitude to an upper | (29) Unit 25—Snake River.                 | (ii) [Reserved]                               |
|   | (i) Snake River from a lower point        | <b>Note:</b> Map follows for Units 24 and 25. |
|   | located at 46.189 degrees latitude, and   |   |



\* \* \* \* \*

Dated: November 8, 2002.

**Paul Hoffman,**Acting Assistant Secretary for Fish and  
Wildlife and Parks.

[FR Doc. 02-29232 Filed 11-27-02; 8:45 am]

BILLING CODE 4310-55-C

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****Notice of Availability of the Draft Recovery Plan for Three of the Five Distinct Population Segments of Bull Trout (*Salvelinus confluentus*) for Review and Comment**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of document availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of 25 chapters of the draft recovery plan for the bull trout (*Salvelinus confluentus*) for public review and comment. Bull trout are char which are native to the Pacific northwest and western Canada. We identified five distinct population segments of bull trout in five States (Idaho, Montana, Nevada, Oregon, and Washington), and listed the fish under the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) by distinct population segments during 1998 and 1999. The final listing resulted in all bull trout in the coterminous United States being listed as threatened. At this time, the draft recovery plan addresses three of the five distinct population segments, the Klamath, Columbia, and St. Mary-Belly Rivers. Draft recovery plan chapters for the remaining distinct population segments will become available for public review in approximately 1 year. Because bull trout in the coterminous United States are widely distributed within a large area, the recovery plan is organized into multiple chapters. The introductory chapter (Chapter 1) discusses programmatic issues that broadly apply to bull trout in the coterminous United States. This chapter describes our range-wide recovery strategy for bull trout and identifies recovery tasks applicable to bull trout in general. Each following chapter focuses on bull trout in specific areas (*i.e.*, recovery units), and describes habitat conditions, defines recovery objectives and criteria, and identifies specific recovery tasks for a particular recovery unit. We have identified 27 recovery units in the 5 distinct population segments of bull trout. This notice of document availability concerns the introductory chapter (Chapter 1) and the 24 recovery unit chapters within the 3 distinct population segments mentioned above.

**DATES:** We will consider comments on the 25 chapters of the draft recovery plan for bull trout received by February 27, 2003.

**ADDRESSES:** The document is available online at <http://pacific.fws.gov/bulltrout>. Copies of the 25 chapters of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: Snake River Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1387 S. Vinnell Way, Suite 368, Boise, Idaho 83709 (phone: 208-378-5243); Montana Field Office, U.S. Fish and Wildlife Service, 100 N. Park, Suite 320, Helena, Montana 59601 (phone: 406-449-5322); Nevada Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1340 Financial Blvd., Suite 234, Reno, Nevada 86502 (phone: 775-867-6300); Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2600 SE. 98th Ave., Suite 100, Portland, Oregon 97266 (phone: 503-231-6179); and Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Dr., SE., Suite 102, Lacey, Washington 98503 (phone: 360-753-9440). Requests for copies of the document should be addressed to these offices, as appropriate.

Comments may be submitted electronically to us at the following email address: [FW1SRBOComments@fws.gov](mailto:FW1SRBOComments@fws.gov). The subject line must state "Bull Trout Comments," and include the name and address of the person submitting the comments. Written comments may be sent directly to the Supervisor, U.S. Fish and Wildlife Service, Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709. Comments may also be submitted by facsimile to 208-378-5262; please state in the subject line "Bull Trout Comments," and include the name and address of the person submitting the comments.

**FOR FURTHER INFORMATION CONTACT:** Jeri Wood, Fish and Wildlife Biologist, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709 (phone: 208-378-5243).

**SUPPLEMENTARY INFORMATION:****Background**

Recovery of endangered or threatened animals and plants is a primary goal of our endangered species program and the Act. A species is considered recovered when the species' ecosystem is restored and/or threats to the species are removed so that self-sustaining and self-regulating populations of the species can be supported as persistent members of native biotic communities. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for

implementing the measures needed for recovery.

The Act requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. We will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. We, along with other Federal agencies, will also take these comments into account in the course of implementing approved recovery plans. Individual responses to comments will not be provided.

Bull trout are char native to the Pacific northwest and western Canada. We identified five distinct population segments of bull trout in five states, and issued a final rule listing the Columbia River (Idaho, Montana, Oregon, and Washington) and Klamath River (Oregon) population segments of bull trout as threatened species on June 10, 1998 (63 FR 31647). The Jarbidge River population segment (Idaho and Nevada) was listed as threatened on April 8, 1999 (64 FR 17110). The Coastal-Puget Sound (Washington) and St. Mary-Belly River (Montana) population segments were listed as threatened on November 1, 1999 (64 FR 58910), which resulted in all bull trout in the coterminous United States being listed as threatened.

Bull trout have more specific habitat requirements than most other salmonid fish. Habitat components that influence bull trout distribution and abundance include water temperature, cover, channel form and stability, spawning and rearing substrate conditions, and migratory corridors. Bull trout require colder water than most other salmonids for incubation, juvenile rearing, and spawning. All life-history stages of bull trout are associated with complex forms of cover, including large woody debris, undercut banks, boulders, and pools. Alterations in channel form and reductions in channel stability influence bull trout due to habitat degradation and negative effects on early life-history stages. Channel alterations may reduce the abundance and quality of side channels, stream margins, and pools, which are areas bull trout frequently inhabit. Because bull trout have a relatively long incubation and development period within spawning gravel (greater than 200 days), bedload transport in unstable channels may kill young bull trout. Spawning and rearing areas are often associated with cold-water springs, groundwater infiltration, and the coldest streams in a watershed.

Bull trout require loose, clean gravel relatively free of fine sediments for spawning and early rearing. Bull trout use migratory corridors to move from spawning and rearing habitats to foraging and overwintering habitats and back. Different habitats provide bull trout with diverse resources, and migratory corridors allow local populations to connect, which may increase the potential for gene flow and support or refounding of populations.

Bull trout distribution, abundance, and habitat quality have declined range wide. These declines are the results of combined effects of habitat degradation and fragmentation; the blockage of migratory corridors; poor water quality; angler harvest and poaching; diversion structures that cause injuries or fatalities; and introduced nonnative species. Specific land and water management activities that have degraded and continue to depress bull trout populations and degrade habitat include dams and other diversion structures, forest management practices, livestock grazing, agriculture, road construction and maintenance, mining, and urban and rural development.

Because the threatened bull trout population segments are widely distributed over a large area, and population segments were subject to listing at different times, we adopted a two-tiered approach to develop the draft recovery plan for bull trout. The first tier addresses broad aspects of bull trout recovery that apply at the level of population segments. The second tier addresses bull trout recovery in smaller areas, such as specific river basin areas or collections of river basins within population segments, termed "recovery units." We relied on two types of teams to assist in developing the draft recovery plan.

To address "big-picture" issues, such as identifying an overall recovery strategy, designating recovery units, and providing guidance in developing the recovery plan, we convened a recovery oversight team. Membership on the recovery oversight team consisted of our biologists, a representative from State fish and wildlife resource agencies in each of four northwestern States (Idaho, Montana, Oregon, and Washington), and a representative from the Upper Columbia United Tribes (Confederated Tribes of the Colville Reservation, Coeur d'Alene Tribe, Kalispel Tribe, Kootenai Tribe of Idaho, and Spokane Tribe).

To develop local recovery strategies at the recovery unit level, we enlisted the assistance of recovery unit teams, one for each recovery unit or recovery subunit. Membership on the recovery unit teams consisted of persons with

technical expertise in various aspects of bull trout biology within each recovery unit, typically representing Federal and State agencies, Tribes, and industry and interest groups. Major tasks of recovery unit teams include: defining recovery for recovery units, including recovery unit-specific objectives and recovery criteria; reviewing factors affecting bull trout; estimating recovery costs; and identifying site-specific recovery actions. Members of the recovery oversight team coordinated the recovery unit teams to ensure consistency among recovery units.

The draft bull trout recovery plan available for public comment differs from many recovery plans in that it is organized into multiple chapters. The introductory chapter (Chapter 1) discusses programmatic issues that broadly apply to bull trout in the coterminous United States. This chapter describes our recovery strategy for bull trout, defines recovery, and identifies recovery tasks applicable to bull trout in general. Each following chapter (Chapters 2 through 28) addresses a specific recovery unit, and describes conditions, defines recovery objectives and criteria, identifies specific recovery tasks, and estimates time and cost required to achieve recovery for a particular recovery unit.

The general goal of all recovery plans is to describe courses of actions necessary for the ultimate delisting of a species. The specific goal of the draft bull trout recovery plan is to ensure the long-term persistence of self-sustaining, complex interacting groups of bull trout distributed across the species' native range in the United States. Recovery of bull trout will require reducing threats to the long-term persistence of populations, maintaining multiple interconnected populations of bull trout across the diverse habitats of their native range, and preserving the diversity of bull trout life-history strategies (e.g., resident or migratory forms, emigration age, spawning frequency, local habitat adaptations). To accomplish this goal throughout the coterminous United States, the draft recovery plan recommends the following four objectives: (1) Maintain current distribution of bull trout within core areas in all recovery units as described in recovery unit chapters and restore distribution where recommended in recovery unit chapters; (2) maintain stable or increasing trends in abundance of bull trout in all recovery units; (3) restore and maintain suitable habitat conditions for all bull trout life history stages and strategies; and (4) conserve genetic diversity and provide opportunity for genetic

exchange. These objectives would apply to bull trout in all recovery units. Additional objectives may be necessary to achieve recovery in some recovery units, which will be identified in the respective recovery unit chapters.

The draft recovery plan provides criteria to assess whether actions have resulted in the recovery of bull trout. The overall recovery criterion for bull trout in the coterminous United States is that all recovery units meet their criteria, as identified in the recovery unit chapters. Criteria specific to each recovery unit are presented in each draft recovery unit chapter. Individual chapters may contain criteria for assessing the status of bull trout and alleviation of threats that are unique to one or several recovery units. However, every draft recovery unit chapter contains criteria to address the following four characteristics: (1) The distribution of bull trout in identified and potential local populations in all core areas within the recovery unit; (2) the estimated abundance of adult bull trout within core areas in the recovery unit, expressed as either a point estimate or a range of individuals; (3) the presence of stable or increasing trends for adult bull trout abundance in the recovery unit; and (4) the restoration of passage at specific barriers identified as inhibiting recovery.

The draft recovery plan identifies specific tasks falling within the following seven categories as necessary to promote recovery: (1) Protect, restore, and maintain suitable habitat conditions for bull trout; (2) prevent and reduce negative effects of nonnative fishes and other nonnative taxa on bull trout; (3) establish fishery management goals and objectives compatible with bull trout recovery, and implement practices to achieve goals; (4) characterize, conserve, and monitor genetic diversity and gene flow among local populations of bull trout; (5) conduct research and monitoring to implement and evaluate bull trout recovery activities, consistent with an adaptive management approach using feedback from implemented, site-specific recovery tasks; (6) use all available conservation programs and regulations to protect and conserve bull trout and bull trout habitats; and (7) assess the implementation of bull trout recovery by recovery units, and revise recovery unit plans based on evaluations.

#### Public Comments Solicited

We solicit written comments on any aspect of the draft recovery plan described, including the estimated costs associated with the recovery tasks outlined in the implementation

schedule in each draft recovery unit chapter. All comments received by the date specified above will be considered in developing a final bull trout recovery plan.

**Authority**

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: October 18, 2002.

**Anne Badgley,**

*Regional Director, Region 1, U.S. Fish and Wildlife Service.*

[FR Doc. 02-29349 Filed 11-27-02; 8:45 am]

**BILLING CODE 4310-55-P**

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at <http://www.nara.gov/fedreg/plawcurr.html>.

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**H.R. 5005/P.L. 107-296**

Homeland Security Act of 2002 (Nov. 25, 2002; 116 Stat. 2135)

**H.R. 3210/P.L. 107-297**

Terrorism Risk Insurance Act of 2002 (Nov. 26, 2002; 116 Stat. 2322)

**H.R. 2546/P.L. 107-298**

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**H.R. 4878/P.L. 107-300**

Improper Payments Information Act of 2002 (Nov. 26, 2002; 116 Stat. 2350)

**H.R. 5349/P.L. 107-301**

To facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri. (Nov. 26, 2002; 116 Stat. 2352)

**S. 3044/P.L. 107-302**

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